The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.
INSTRUCTIONS
FOR UPDATING THE
IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

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Replace Analysis
Replace Chapter 3
Replace Chapter 12
Replace Chapter 16 with Reserved Chapter 16
Replace Chapter 19 with Reserved Chapter 19

Historical Division[223]
Replace Chapter 48

Economic Development Authority[261]
Replace Chapter 65

Inspections and Appeals Department[481]
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Replace Chapter 50
Replace Chapters 57 and 58
Replace Chapters 62 to 65

Public Health Department[641]
Replace Chapter 133

Professional Licensure Division[645]
Replace Chapters 180 to 182
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Pharmacy Board[657]
Replace Chapter 10

Transportation Department[761]
Replace Chapter 601
Replace Chapters 604 and 605
Replace Chapter 630

Labor Services Division[875]
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Replace Chapter 26
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Credit Union[190] Department[295] renamed Credit Union Division[189] under the Department of Commerce by 1986 Iowa Acts, Senate File 2175, section 751, effective July 1, 1986. See IAB 9/10/86.

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189—3.1(533) Definitions. As used in this chapter:
   “Credit union” means credit union as defined in the Iowa Credit Union Act, Iowa Code section 533.102.
   “Federal banking agencies” means federal banking agencies as defined in Section 3 of the Federal Deposit Insurance Act.
   “Federal credit union” means credit union as defined in Section 101 of the Federal Credit Union Act, 12 U.S.C. 1752(1).
   “Mutual savings bank” and “savings association” have the same meaning as defined in Section 3 of the Federal Deposit Insurance Act.
   “Senior management official” means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer as defined by the appropriate federal banking agency pursuant to Section 32(f) of the Federal Deposit Insurance Act, 12 U.S.C. 1831i(f).
   “Superintendent” means the superintendent of credit unions of the Iowa credit union division of the department of commerce.

189—3.2(533) Authority to convert.
   3.2(1) An Iowa-chartered credit union, with the approval of its members, may convert to a federal credit union, subject to applicable law, regulation and procedures of the governing recipient chartering authority, the National Credit Union Administration, and the requirements of this chapter.
   3.2(2) An Iowa-chartered credit union shall remain responsible for the entire annual fee pursuant to Iowa Code section 533.112 during the year in which the credit union converts.
   3.2(3) Disclosure to members.
      a. No credit union shall convert to a federal credit union without full disclosure to its members of the intents and purposes of conversion.
      b. If the intent to undertake a second conversion to a mutual savings bank or a savings association is among the purposes for conversion to a federal credit union, those facts and all related information shall be fully disclosed to members.
      c. If a further conversion to a stock institution is among the possible outcomes from the conversion, the converting Iowa-chartered credit union shall fully and accurately disclose this possibility to its members.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—3.3(533) Board of directors and membership approval.
   3.3(1) Any conversion proposal may be approved by the board of directors only upon the affirmative vote of a majority of the board. The board shall then set a date for a vote on the proposal by the members of the credit union and select the method of voting by a favorable vote of a majority of the board, according to the provisions of Iowa Code section 533.203.
   3.3(2) The membership shall approve the proposal to convert by the affirmative vote of a majority of those members who vote on such proposal. Each eligible member shall have one vote regarding the conversion proposal.
   3.3(3) The vote of the members to convert shall be in the manner prescribed in this chapter.
   3.3(4) The board of directors shall notify the superintendent of any proposed conversion within three days of an affirmative vote by the board on a conversion proposal. The board shall also notify the superintendent of any abandonment or disapproval of the conversion by the members or by the recipient chartering authority, the National Credit Union Administration, or applicable federal deposit insurer within seven days of a membership vote to abandon or disapprove the conversion, receipt of disapproval by a chartering authority, or other decision to abandon the conversion.
3.3(5) Prior to completion of any conversion, the board shall supply the superintendent a certified affidavit of compliance with these rules.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—3.4(533) Notice to members and voting procedures.

3.4(1) Requirements. All conversion plans shall be submitted to the superintendent in accordance with 189—3.5(533). The members may not vote on the proposal until the credit union has received preliminary approval from the superintendent under 189—3.5(533), as well as the preliminary determination from the National Credit Union Administration on the proposition for conversion.

3.4(2) Vote by board of directors. The board of directors shall, by majority vote, select the method of voting for the membership vote on the conversion proposal in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

3.4(3) Election committee. The board shall appoint an election committee of not fewer than seven members, none of whom may be from the board of directors or be a member of a director’s immediate family or be an employee of the credit union or a member of an employee’s immediate family.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

3.4(4) Notice of balloting. The secretary shall set forth the conversion issue in a notice mailed to all members eligible to vote at least 90 calendar days, 60 calendar days, and 30 calendar days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.
(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate, in bold-faced type, that members have the right to vote on the proposed amendment through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice shall do all of the following:

(1) Adequately describe the purpose and the subject matter of the vote.

(2) Accurately disclose the reasons for the conversion, stated in specific terms and not as generalities. If a purpose of conversion is to become a mutual savings bank, a savings association that is in mutual form, or a stock institution, the notice shall clearly inform the member of all of the following:

1. That the conversion, if approved, could lead to members’ losing their ownership interest in the credit union.

2. That a credit union member has no more than one vote regardless of the number of shares held, but that in a mutual savings bank or savings association, voting may be based on the amount in the member’s deposit accounts, commonly one vote granted for each $100 on deposit.

3. That if the mutual savings bank or association converts to a stock institution, members will lose their ownership interests and voting rights automatically received as a member.

4. The method that will be used to provide for a pro-rata distribution of all unencumbered credit union retained and undivided earnings in excess of regulatory required reserves, as calculated pursuant to Iowa Code section 533.303, or in excess of a well-capitalized net worth level, calculated pursuant to the Federal Credit Union Act, 12 U.S.C. §1790d, whichever amount is greater. The pro-rata distribution shall occur on all shares of record as of the date of first notice to members under this rule and shall be based upon the member’s share balance less any amount pledged to share-secured loans.

(3) Specify the costs of the conversion, such as changing the credit union name, examination and operating fees, attorney and consulting fees, tax liability, and any change or increase in compensation or economic benefit to directors or senior management officials, pursuant to subrule 3.10(2).

(4) Include an affirmative statement that, at the time of conversion to a federal credit union and for a period of five years thereafter, the credit union does or does not intend to do each of the following:

1. Convert to a mutual savings bank or savings association or a stock institution.

2. Provide any compensation to previously uncompensated members of the board of directors, or increase compensation or other conversion-related economic benefit, including stock options, special prices on stock, or first rights of refusal, to directors, senior management officials, or their agents, brokers, family members or other closely related parties.

3. Base member voting rights on account balances.

4. The notice shall not be included as part of any general mailing to members.

5. The notice may be sent electronically to those members who have opted to receive notices electronically.

6. The notice shall be posted in each credit union office 90 calendar days, 60 calendar days, and 30 calendar days before the close of balloting.

7. A member who joins the credit union subsequent to the 30-calendar-day notice and prior to the close of balloting and who is eligible to vote on the conversion shall be provided a copy of the 30-calendar-day notice and any balloting materials.

3.4(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:
a. The secretary shall include the following balloting materials with the 30-calendar-day notice of balloting:
   (1) One ballot, clearly identified as the ballot.
   (2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.
   (3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.
   (4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall have postage prepaid and be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

3.4(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

   a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

   b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

   c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

3.4(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

   a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

   b. The secretary shall mail the balloting materials specified in paragraph 3.4(5) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

   c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

   d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any
previous count of absentee ballots. The election committee shall immediately certify the vote count to
the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

3.4(8) In-person vote at meeting. If the board voted by majority vote to conduct the vote in whole
or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the
meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed
in conspicuous locations by the election committee before the meeting. After those members have been
given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the
vote tallied by the election committee and added to any previous count of mailed or electronic ballots.
The election committee shall immediately certify the vote count to the board. The chairperson of the
election committee shall announce the result of the vote at the meeting.

3.4(9) Preservation of ballots. Ballots shall be preserved according to the requirements of
189—12.9(533). The 60-day retention period required by 189—subrule 12.9(2) shall run from the date
the results are certified to the board by the election committee.

3.4(10) Certification of vote by board of directors. The board of directors shall certify to the
superintendent the results of the membership vote and the written materials provided to members
according to the requirements of 189—3.6(533).

3.4(11) Publication of results. The board shall inform the membership of the results of the vote, and
of the superintendent’s approval or disapproval, by conspicuously posting notice in each credit union
office for a period of 60 days following receipt of the superintendent’s decision under 189—3.7(533). In
addition to posting the results in each credit union office, the board shall also communicate the results
to the membership by at least one of the following methods:
   a. Include the results in the next mailing of the member’s statement of account.
   b. Include the results in the credit union newsletter.
   c. Include the results in the sponsor’s newsletter.
   d. Post a notice on the credit union’s Web site.
   e. Place a notice in a newspaper of general circulation within the geographic area of operation of
      the credit union.

3.4(12) Effective date of conversion. The board shall notify the superintendent of the effective date
of the conversion and shall file evidence of federal regulatory approval for the conversion pursuant to
189—3.9(533).

3.4(13) Certificate of conversion. Upon receipt of the certificate of conversion from the
superintendent, the credit union shall file the certificate pursuant to 189—3.9(533).

3.4(14) Termination of conversion proceedings. At any time prior to completion of a conversion to
a federal credit union, the board or the members as provided in the bylaws may call for a special meeting
of the members to be held to terminate the conversion proceedings. The membership shall approve the
proposal to terminate the conversion proceedings by the affirmative vote of a majority of those members
who vote on the proposal.

[ARC 0938C, IAB 8/7/13; effective 9/15/13]

189—3.5(533) Notice to the superintendent.

3.5(1) The credit union shall provide the superintendent with notice of its intent to convert and a
plan of conversion no less than 30 calendar days prior to the 90-calendar-day period preceding the close
of balloting under 189—3.4(533).

3.5(2) The credit union shall give notice to the superintendent and provide a plan of conversion
describing the material features of the conversion, along with a copy of the filing the credit union has
made with the federal regulatory agency by which the credit union seeks that agency’s approval of the
conversion. The credit union shall include with the notice to the superintendent a copy of the notice
the credit union proposes to provide to members under 189—3.4(533), as well as the proposed ballot
and related instructions and envelopes, all written materials the credit union has distributed or intends
to distribute to its members, and the procedures the election committee will follow in its receipt and
counting of the ballots.

3.5(3) Superintendent’s preliminary determination.
a. The superintendent shall make a preliminary determination regarding the methods and procedures applicable to the membership vote.

b. The superintendent shall notify the credit union within 30 calendar days of receipt of the credit union’s notice of intent to convert if the superintendent disapproves of the proposed methods and procedures applicable to the membership vote.

c. The credit union’s submission of the notice of intent and plan of conversion does not relieve the credit union of its obligation to certify the results of the membership vote required by 189—3.6(533) or certify compliance with these rules as required by 189—3.3(533) or eliminate the right of the superintendent to disapprove the actual methods and procedures applicable to the membership vote if the credit union fails to conduct the membership vote in a fair and legal manner.

3.5(4) The superintendent may disapprove a plan of conversion submitted by the board of directors of a credit union based upon any of the following determinations:

a. The plan is inconsistent with applicable statutes and regulations.

b. The plan does not contain all required information.

c. The plan fails to fully and fairly disclose the effect of the proposal on members of the credit union.

d. The plan does not fairly compensate members for their ownership interests in the credit union.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—3.6(533) Certification of vote on conversion proposal.

3.6(1) The board of directors of the converting credit union shall certify the results of the membership vote to the superintendent within ten calendar days after the vote is taken.

3.6(2) The board of directors shall also certify at the same time that the notice, ballot and other written materials provided to members were identical to those submitted pursuant to 189—3.5(533) or provide copies of any new or revised materials and an explanation of the reasons for the changes.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—3.7(533) Superintendent oversight of methods and procedures of membership vote.

3.7(1) The superintendent shall issue a determination that the methods and procedures applicable to the membership vote are approved or disapproved within ten calendar days of receipt from the credit union of the certification of the result of the membership vote required under 189—3.6(533).

3.7(2) If the superintendent disapproves of the methods by which the membership vote was taken or the procedures applicable to the membership vote, the superintendent may direct that a new vote be taken at a time and place acceptable to the board of directors and the superintendent.

3.7(3) The superintendent’s review of the methods by which the membership vote was taken and the procedures applicable to the membership vote includes determining that the notice to members is accurate and not misleading, that all notices required by these rules were timely, and that the membership vote was conducted in a fair and legal manner.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—3.8(533) Other regulatory oversight of methods and procedures of membership vote. The federal agency that will have jurisdiction over the financial institution after conversion may subject the membership vote to verification and may direct that a new vote be taken if it disapproves of the methods by which the membership vote was taken or of the procedures applicable to the membership vote.

189—3.9(533) Completion of conversion.

3.9(1) Upon receipt of approvals under 189—3.7(533) and 189—3.8(533), the credit union may complete the conversion transaction.

3.9(2) Submission of evidence of approval and effective date.

a. The board of directors of the credit union shall file with the superintendent appropriate evidence of approval of the conversion by the appropriate federal agency having jurisdiction over the financial institution after conversion and from the federal agency providing deposit insurance to the
converted financial institution, and, if applicable, a copy of the notice from the National Credit Union Administration canceling the credit union insurance certificate.

b. The board of directors of the credit union shall also notify the superintendent of the actual date on which the conversion is to be effective.

3.9(3) Upon receipt of satisfactory proof that the Iowa-chartered credit union has complied with all applicable laws and regulations of this state and of the United States, the superintendent shall cancel the charter of the credit union and issue a certificate of conversion that shall be filed and recorded in the county in which the credit union has its principal place of business and in the county in which its original articles of incorporation or certification of organization was filed and recorded, if different.

3.9(4) Violations of law or intent to deceive or mislead.

a. In the event it is subsequently determined the conversion was accomplished contrary to applicable law, regulation or the requirements of this chapter, in whole or in part, or with the intent to deceive or mislead the members of the credit union or the superintendent, the superintendent shall take immediate action to cause the conversion to be declared null and void, and to request from the appropriate regulatory authority that the converted institution be ordered to surrender its charter and be returned to the authority of the superintendent for reinstatement as a state charter, or other action.

b. The provisions of Iowa Code chapter 533 shall apply in the event it is determined that any director, officer, agent, employee or clerk of the credit union knowingly submitted or made or exhibited false statements, papers or reports to the superintendent.

c. If during the conversion process any person commits any act constituting a fraudulent practice under Iowa Code section 714.8, the matter shall be referred to the attorney general.

3.9(5) If the superintendent finds a material deviation from the provisions of this chapter, or from Iowa Code chapter 533, that would invalidate any steps taken in the conversion, the superintendent shall promptly notify the credit union and the National Credit Union Administration of the nature of the adverse findings.

3.9(6) The conversion of the Iowa credit union to a federal credit union shall not be effective and completed until final approval is given by the superintendent, any improper actions are cured, and corrective steps have been accomplished, if applicable.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—3.10(533) Limit on compensation of officials.

3.10(1) No director or senior management official of an Iowa credit union shall receive any economic benefit in connection with a plan of conversion or the actual conversion of the credit union, other than regular compensation and other usual benefits paid to directors or senior management officials in the ordinary course of business.

3.10(2) In connection with the notices to members required by this chapter, the converting credit union shall disclose to the members the cost of the conversion, including any change or increase in compensation or economic benefit to directors or senior management officials of the credit union in the event the conversion process is accomplished.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

These rules are intended to implement Iowa Code sections 533.203 and 533.403.

[Filed emergency 11/19/03—published 12/10/03, effective 11/19/03]
[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]
[Filed ARC 0938C (Notice ARC 0769C, IAB 5/29/13), IAB 8/7/13, effective 9/15/13]
CHAPTER 12
VOTES OF THE MEMBERSHIP

189—12.1(533) Voting requirements and eligibility.

12.1(1) All elections are determined by plurality vote.

12.1(2) A member shall have one vote regardless of the number of or class of shares held by the member. Jointly held ownership shares are entitled to one vote, and joint tenants shall not be permitted to cast more than one vote per ownership share jointly held.

12.1(3) Members shall not vote by proxy.

12.1(4) A member other than a natural person may cast a single vote through a delegated agent.

12.1(5) Members shall be at least 16 years of age by the date of the meeting in order to vote, sign nominating petitions, or sign petitions requesting special meetings.

12.1(6) Members shall be at least 18 years of age by the date of the meeting where the election or appointment will occur in order to hold an elected or appointed position.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.2(533) Nomination procedures for the board of directors.

12.2(1) Nominating committee. If the board has determined that voting for directors at the annual meeting will be conducted via one or more methods other than only in-person voting at the meeting, then at least 120 days before each annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members.

a. It is the duty of the nominating committee to nominate at least one member for each vacancy, including for any unexpired-term vacancy, for which elections are being held and to obtain a signed certificate from the members nominated that they are agreeable to the placing of their names in nomination, will accept office if elected, and will cooperate with any background check required by the credit union.

b. The nominating committee shall file its nominations with the secretary of the credit union board at least 90 days before the annual meeting.

c. Nominations made by the nominating committee are not subject to the petition process in subrule 12.2(2).

12.2(2) Nominations by petition. If the board of directors determines pursuant to subrule 12.3(1) that voting for directors will be conducted in whole or in part by mail or electronic ballots prior to the annual meeting, then nominations shall not be taken from the floor at the annual meeting and the nominating committee shall accept additional nominations by petition.

a. At least 90 days before the annual meeting, the secretary shall notify in writing all members eligible to vote that nominations for vacancies may be made by petition signed by at least 1 percent of the members, subject to a minimum of 20 members and a maximum of 200 members.

(1) The notice shall indicate that there will be no nominations from the floor at the annual meeting.

(2) The notice shall include a list of the nominating committee’s nominees and a brief statement of the nominees’ qualifications and biographical data in a form approved by the board of directors. Each nominee by petition shall submit a similar statement of qualifications and biographical data with the petition.

(3) Nominations by petition shall be accompanied by a signed certificate from the nominee stating that the nominee is agreeable to nomination, will serve if elected to office, and will cooperate with any background check required by the credit union.

(4) The period for receiving nominations by petition shall extend at least 30 days from the date that the notice is sent. Petitions shall be filed with the secretary of the credit union at least 60 days before the annual meeting.

(5) Nominations by petition which are received after the closing date, or which are otherwise incomplete because they do not include a statement of qualifications and biographical data, or certification agreeing to the nomination and indicating a willingness to serve, shall be disqualified by
the board secretary. The secretary shall immediately notify the nominee of the disqualification and of the reason. A petition for a disqualified nominee may be refiled provided that all requirements, including the closing date for receiving nominations by petition, are met.

b. The notice may be included with the notice of annual meeting, in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The secretary may use electronic mail to notify members who have opted to receive notices or statements electronically.

12.2(3) Posting of nominations. The secretary shall ensure that all nominations are posted in a conspicuous place in each credit union office at least 30 days but no more than 60 days before the annual meeting.

12.2(4) Alternative schedule—voting only in person at annual meeting. If the board of directors determines that voting at the annual meeting shall only be conducted in person, and nominations will be taken from the floor at the annual meeting, the chairperson of the board shall appoint a nominating committee of three or more members, none of whom are directors currently eligible for reelection or their immediate family members, at least 60 days before the annual meeting. The nominating committee shall not solicit additional nominations by petition pursuant to subrule 12.2(2). Nominations shall be posted according to subrule 12.2(3).

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.3(533) Election procedures for the board of directors.

12.3(1) Vote by board of directors. The board of directors shall, by majority vote, select the method of voting for the membership vote for the election of directors, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at the annual meeting, pursuant to the requirements of this rule.

12.3(2) Election committee. The board of directors shall appoint an election committee of not fewer than five members, none of whom may be a current director or nominee for office or an immediate family member of any director or nominee for office.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the election at the annual meeting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.
12.3(3) Notice of balloting. At least 20 days but not more than 30 days prior to the close of balloting, the secretary shall produce a notice of balloting.

a. The notice of balloting shall state the names of the candidates for the board of directors. The name of each candidate shall be followed by a brief statement of the candidate’s qualifications and biographical data in a form approved by the board of directors.

b. If the board of directors elected to accept additional nominations by petition, then the notice of balloting shall state that additional nominations shall not be taken from the floor at the annual meeting. In this event, the board may vote to conduct the election in any form permitted by Iowa Code section 533.203.

c. If the board of directors did not elect to accept additional nominations by petition, then the notice of balloting shall state that additional nominations will be taken from the floor at the annual meeting. In this event, the board may only vote to conduct the election in person at the annual meeting, and not by mail-in ballot, electronic voting, absentee voting, or any combination permitted by Iowa Code section 533.203.

d. The notice shall set forth the rules and procedures for voting and the date of the close of balloting for ballots submitted other than in person during voting at the annual meeting.

(1) The close of balloting for ballots submitted other than in person during voting at the annual meeting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at the annual meeting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at the annual meeting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

e. The notice may be included with notice of the annual meeting and in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

f. Electronic mail may be used to provide the notice of balloting to members who have opted to receive notices or statements electronically.

12.3(4) Mailed ballots. If the board of directors, by majority vote, has elected to conduct the election in whole or in part by mailed ballot, then the secretary shall send with the notice of balloting a mail-in ballot.

a. The secretary shall include the following materials for balloting:

(1) One ballot, clearly identified as the ballot, on which the names of the candidates for the board of directors are printed in random order.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions for the electronic voting procedure.
c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If voting will also occur at the annual meeting, the ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting. If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the annual meeting.

12.3(5) Electronic voting. If the board of directors, by majority vote, has elected to conduct the election in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting.

a. The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions for electronic voting required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee. If voting will also occur at the annual meeting, then the results shall be verified at the meeting.

d. If voting is not scheduled to occur at the annual meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the close of balloting for ballots submitted other than in person during voting at the annual meeting.

12.3(6) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the election only in person at the annual meeting, the board may also, by majority vote, utilize absentee ballots when no additional nominations will be taken from the floor at the annual meeting and when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of annual meeting a notification that members may vote either in person at the annual meeting or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at the annual meeting.

b. The secretary shall mail the balloting materials specified in paragraph 12.3(4) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the annual meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.3(7) Nominations from the floor—subsequent in-person vote at meeting. If the board of directors did not elect to accept additional nominations by petition, then additional nominations shall be taken from the floor at the annual meeting, provided that no electronic, mail-in, or absentee balloting has occurred.

a. At the annual meeting, printed ballots shall be distributed to those in attendance after additional nominations are taken from the floor, or the ballots shall also have blank spaces to write in the additional names. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

b. After members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee.
c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.

12.3(8) In-person vote at meeting. If the board of directors elected to accept additional nominations by petition, and if the board of directors also chose to conduct the vote in whole or in part by in-person voting at the annual meeting, printed ballots shall be distributed to those in attendance at the annual meeting who have not voted.

a. The ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

b. After those members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the annual meeting.

12.3(9) Preservation of ballots. Ballots shall be preserved according to the provisions of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.3(10) Publication of results. Results of the election shall be reported to members according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

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189—12.4(533) Vote to amend bylaws or articles of incorporation.

12.4(1) Requirements. Voting on amendments of bylaws and articles of incorporation shall be conducted in accordance with Iowa Code section 533.201. All amendments shall be approved by the superintendent before the amendments become effective.

12.4(2) Vote by board of directors. If the board of directors has elected upon a favorable vote of the majority that the board of directors shall vote on the amendment, then the amendment is adopted by a favorable vote of the majority of the board.

12.4(3) Membership vote. The board of directors may vote to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

12.4(4) Election committee. If the board of directors votes to conduct the vote on the amendment by a method other than a majority vote of the board of directors, as provided in Iowa Code section 533.201, then the board shall appoint an election committee of not fewer than five members, none of whom may be directors.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. The chairperson of the election committee shall announce the results of the vote at the annual meeting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.201.
e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.4(5) Notice of balloting. The secretary shall set forth the proposed amendment in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person at a meeting held for the purpose of voting. The notice shall also contain a summary of the board’s reasons for recommending the amendment.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed amendment through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.4(6) Mailed ballots. If the board of directors has elected, upon a favorable vote of the majority, to conduct a vote on the proposed amendment in whole or in part via mailed ballot:

a. The secretary shall include the following materials for balloting with the notice of balloting:

(1) One ballot, clearly identified as the ballot, on which the proposed amendment is printed in full.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.
c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If voting is not scheduled to occur at a meeting, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.4(7) Electronic voting. If the board of directors, by majority vote, has elected to conduct the vote in whole or in part by electronic voting, then the secretary shall include with the notice of balloting specific instructions for electronic voting to each member eligible to vote.

a. The instruction sheet for electronic voting shall contain specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee. If voting will also occur at a meeting, then the results shall be verified at the meeting.

d. If voting is not scheduled to occur at a meeting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.4(8) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

b. The secretary shall mail the balloting materials specified in paragraph 12.4(6) “a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.4(9) In-person voting at meeting. If the board of directors has elected, upon a favorable vote of the majority, to present the proposed amendment for a vote in whole or in part at a meeting of members, printed ballots shall be given at the meeting to those members who have not voted by another method.

a. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting.

b. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots.

c. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.
12.4(10) Preservation of ballots. Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date of final approval or denial of the amendment by the superintendent.

12.4(11) Submission to superintendent. The board of directors shall submit the amendment to the superintendent for approval before the amendment becomes effective. The board shall submit the following documentation in support of its request for approval:
   a. A certified copy of the board minutes which contain the recommendation to submit the amendment to a vote of the membership.
   b. A certified copy of the notices provided to members.
   c. A certified copy of any ballots provided to members.
   d. A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed amendment.

12.4(12) Publication of results. The board shall inform the membership of the results of the vote and whether the amendment received the approval of the superintendent, according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date of final approval or denial of the amendment by the superintendent.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.5(533) Vote to modify, amend, or reverse an act of the board of directors or to instruct the board to take action.

12.5(1) Vote of members at meeting. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the articles of incorporation, the bylaws, or the Iowa credit union Act or administrative rules.

12.5(2) Subsequent vote of membership. In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote.
   a. After a majority of members present at a meeting have voted to modify, amend, or reverse any act of the board of directors, or to instruct the board to take action not inconsistent with the articles, the bylaws, or the Iowa credit union Act or administrative rules, the board of directors shall meet to determine the method of voting for the membership vote and shall, within 60 days of the date of the meeting where the majority of members voted to modify, amend, or reverse an act of the board of directors, or to instruct the board to take action, submit the issue to all eligible voters of record as of the date of the meeting.
   b. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.
   c. If a simple majority of all eligible members vote in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting shall be considered affirmed, and the board of directors shall take immediate action to comply with the directions of the membership. However, if a simple majority of all eligible members failed to vote in favor of the amendment, modification, reversal or instruction to take action, the vote of the members taken at the annual or special meeting is not affirmed, and the prior action of the board of directors shall be considered upheld.

12.5(3) Election committee. The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.
a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.5(4) Notice of balloting. The secretary shall set forth the proposed amendment, modification, reversal or instruction to take action in its entirety in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board’s reasons for its action or inaction, as well as a summary of the reasons, if known, for the vote to amend, modify, or reverse the board action, or to instruct the board to take action.

1. The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

2. Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

3. Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

4. Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

5. If more than one method of voting will be used, the notice shall also communicate that members have the right to vote through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.5(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:
a. The secretary shall include the following balloting materials with the notice of balloting:

   (1) One ballot, clearly identified as the ballot, on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full.

   (2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

   (3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

   (4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.5(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

   a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

   b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

   c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.5(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

   a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

   b. The secretary shall mail the balloting materials specified in paragraph 12.5(5)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

   c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

   d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any
previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.5(8) In-person vote at meeting. If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots on which the proposed amendment, modification, or reversal, or instruction to the board to take action, is printed in full shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.5(9) Preservation of ballots. Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.5(10) Publication of results. The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.6(533) Vote on merger.

12.6(1) Vote by board of directors. A state credit union that seeks to merge with another credit union shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors.

12.6(2) Subsequent vote of the membership. Following a vote by the board of directors to merge with another credit union, the board shall submit the merger to a vote of the membership of the merging credit union unless the superintendent finds that an emergency exists justifying the waiver of the membership vote.

a. The board of the continuing credit union shall, within three days of voting to merge, notify the superintendent of the merger vote.

b. After the superintendent has given preliminary approval to the merger, the board of the merging credit union shall submit the issue within 30 days to all eligible voters of record as of the date of the vote by the board of directors. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

c. The approval of the merger is not final until approved by the superintendent after the membership vote of the merging credit union.

12.6(3) Election committee. The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the vote at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member voted.
d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

e. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.6(4) Notice of balloting. The secretary shall set forth the proposed merger in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board’s reasons for voting to merge.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed merger through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.6(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:
(1) One ballot, clearly identified as the ballot.
(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.
(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.
(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.
c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.6(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.6(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

b. The secretary shall mail the balloting materials specified in paragraph 12.6(5)"a" to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.6(8) In-person vote at meeting. If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.6(9) Preservation of ballots. Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.
12.6(10) Submission to superintendent. The board of directors shall submit the merger to the superintendent for approval before the merger becomes effective. The board shall submit the following documentation in support of its request for approval:
   a. A certified copy of the board minutes which contain the vote of the board of directors to approve the merger and to submit the merger to a vote of the membership.
   b. A certified copy of the notices provided to members.
   c. A certified copy of any ballots provided to members.
   d. A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed merger.

12.6(11) Publication of results. The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee. [ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.7(533) Vote on voluntary dissolution.

12.7(1) Vote of board of directors. A state credit union that seeks to dissolve shall proceed pursuant to a plan agreed upon by a favorable vote of a majority of directors. Within three days of the vote and prior to sending notice of the membership vote, the board of directors shall notify the superintendent of the intention to dissolve.

12.7(2) Subsequent vote of the membership. Following a vote by the board of directors to dissolve, the board shall submit the dissolution to a vote of the membership.
   a. The board shall submit the issue to the membership within 30 days of voting to dissolve.
   b. The board shall submit the issue to all eligible voters of record as of the date of the vote by the board of directors.
   c. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.
   d. The approval of the dissolution is not final until the superintendent issues a certificate of dissolution.

12.7(3) Election committee. The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.
   a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.
   b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.
   c. No member or agent of the election committee shall reveal the manner in which any member voted.
   d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.
   e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.
For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.7(4) Notice of balloting. The secretary shall set forth the proposed dissolution in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board’s reasons for voting for the voluntary dissolution.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed dissolution through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.7(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting
is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.7(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:
   a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.
   b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.
   c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.7(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.
   a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.
   b. The secretary shall mail the balloting materials specified in paragraph 12.7(5)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.
   c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.
   d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.7(8) In-person vote at meeting. If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.7(9) Preservation of ballots. Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.7(10) Submission to superintendent. The board of directors shall submit the dissolution to the superintendent for review before the dissolution becomes effective. The state credit union shall cease existence when the superintendent issues a certificate of dissolution. The board shall submit the following documentation:
a. A certified copy of the board minutes which contain the vote of the board of directors to approve the plan and to submit the dissolution to a vote of the membership.

b. A certified copy of the notices provided to members.

c. A certified copy of any ballots provided to members.

d. A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed dissolution.

e. Proof that is satisfactory to the superintendent that all assets have been liquidated from which there is a reasonable expectation of realization, that the liabilities of the state credit union have been discharged and distribution made to its members, and that the liquidation has been completed.

12.7(11) Publication of results. The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.8(533) Vote to remove or reinstate an officer, director, or member of the auditing committee.

12.8(1) Auditing committee vote. If the auditing committee deems the action to be necessary to the proper conduct of the state credit union, the auditing committee may suspend, by majority vote, any officer, director, or member of the auditing committee.

12.8(2) Subsequent vote of membership. Following a vote by the auditing committee to suspend an officer, director, or member of the auditing committee, the suspension shall be put to a vote of the membership.

   a. The members may vote to sustain the suspension and remove the officer, director, or auditing committee member permanently or may vote to reinstate the officer, director, or auditing committee member.

   b. The board of directors shall meet to determine the method of voting for the membership vote and shall, within 30 days of the date of the auditing committee’s vote, submit the issue to all eligible voters of record as of the date of the auditing committee’s meeting. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. If the number of members who have opted to receive notices electronically is less than all members, the board may provide access to an electronic device in each credit union office for the members to vote electronically in order to satisfy the access requirement. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.

12.8(3) Election committee. The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors and none of whom may be from the auditing committee.

   a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.

   b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to the board within five days of the close of balloting.

   c. No member or agent of the election committee shall reveal the manner in which any member voted.

   d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election committee shall test the integrity of the electronic voting system at regular intervals during the election period. In the event of a malfunction of the electronic voting system, the board may in its discretion order the election to be held in another form, consistent with Iowa Code section 533.203.
e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify, or cause to be verified, the name and credit union account number of the voter as they appear on the identification form, to place the verified identification form and the sealed ballot envelope in a place of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved.

12.8(4) Notice of balloting. The secretary shall set forth the suspension and proposed removal in a notice to all members eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other vote on the subject shall be taken after the closing date of balloting except for votes cast in person during voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the auditing committee’s reasons for voting to suspend the officer, director, or member of the auditing committee, as well as a summary of the reasons, if known, that the officer, director, or member of the auditing committee believes that the officer, director, or member should be reinstated.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting and received within five business days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit union business hours on the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members have the right to vote on the proposed removal through any of the methods of voting designated by the board, but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters, on the credit union Web site, or on signs posted in the credit union.

c. The notice may be sent electronically to those members who have opted to receive notices electronically.

12.8(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit union account number of the voter.

(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.
c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.8(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.8(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

b. The secretary shall mail the balloting materials specified in paragraph 12.8(5)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.8(8) In-person vote at meeting. If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.8(9) Preservation of ballots. Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.
12.8(10) **Publication of results.** The board shall inform the membership of the results of the vote according to the provisions of 189—12.10(533). The 60-day posting period required by subrule 12.10(1) shall run from the date the results are certified to the board by the election committee.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.9(533) **Preservation of ballots.**

12.9(1) Immediately upon certification of the results of the vote by the election committee, any written ballots shall be sealed and appropriately labeled. Electronic vote results shall be saved electronically.

12.9(2) All ballots and voting results shall be retained by the credit union for at least 60 days, and until any disputes are resolved.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.10(533) **Reporting the results of the vote to the membership.**

12.10(1) **Posting of results.** Except as otherwise provided for a membership vote, the board shall inform the membership of the results of the vote by conspicuously posting notice in each credit union office for a period of 60 days.

12.10(2) **Publication of results.** Except as otherwise provided for a membership vote, in addition to posting the results in each credit union office, the board shall also communicate the results to the membership by at least one of the following methods:

- a. Include the results in the next mailing of the member’s statement of account.
- b. Include the results in the credit union newsletter.
- c. Include the results in the sponsor’s newsletter.
- d. Post a notice on the credit union’s Web site.
- e. Place a notice in a newspaper of general circulation within the geographic area of operation of the credit union.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.11(533) **Vote on sale of assets by corporate central credit union.**

12.11(1) **Board of directors’ vote.** A corporate central credit union that seeks to sell all of its assets to another corporate credit union shall proceed pursuant to a plan agreed upon by a majority vote of a majority of directors. The board shall notify the superintendent within three days.

12.11(2) **Subsequent vote of the membership.** Following a vote by the board of directors to approve a plan to sell all of the corporate central credit union’s assets to another corporate credit union, the board shall submit the plan to a vote of the membership.

- a. The board shall submit the issue within 30 days of voting to approve the plan to all eligible voters of record as of the date of the vote by the board of directors.
- b. The board of directors shall, by majority vote, select the method of voting for the membership vote, in accordance with Iowa Code section 533.203. Each credit union member shall have a meaningful opportunity to vote in a membership vote. The board of directors shall vote to conduct the vote in whole by electronic voting only if all members have access to an electronic voting device. Otherwise, the board shall also conduct the vote in part by mail-in ballot or in person at a meeting held for the purpose of voting, pursuant to the requirements of this rule.
- c. The approval of the sale is not final until approved by the superintendent after the membership vote.

12.11(3) **Election committee.** The board shall appoint an election committee of not fewer than five members, no more than two of whom may be from the board of directors.

- a. It is the duty of the election committee to oversee balloting, to tabulate votes, and to ensure that each member shall only be allowed to vote once and that multiple ballots submitted by the same member are disqualified.
- b. The election committee shall elect a chairperson from among the committee members. If the balloting includes a vote taken at a meeting of members, the chairperson of the election committee shall
announce the results of the election at the meeting; otherwise, the chairperson shall certify the vote to
the board within five days of the close of balloting.

c. No member or agent of the election committee shall reveal the manner in which any member
voted.

d. If the board of directors, by majority vote, has elected to utilize electronic voting, the election
committee shall test the integrity of the electronic voting system at regular intervals during the election
period. In the event of a malfunction of the electronic voting system, the board may in its discretion
order the election to be held in another form, consistent with Iowa Code section 533.203.

e. For electronic ballots, it is the duty of the election committee to verify, or cause to be verified,
the name and credit union account number of the voter as registered in the electronic voting system.

f. For mail-in ballots, including absentee ballots, it is the duty of the election committee to verify,
or cause to be verified, the name and credit union account number of the voter as they appear on the
identification form, to place the verified identification form and the sealed ballot envelope in a place
of safekeeping pending the count of the vote, and, in the case of a questionable or challenged identification
form, to retain the identification form and sealed ballot envelope together until the verification or
challenge has been resolved.

12.11(4) Notice of balloting. The secretary shall set forth the proposed sale in a notice to all members
eligible to vote at least 20 days but not more than 30 days prior to the closing date of balloting.

a. The notice shall set forth the rules and procedures for voting, the date of the close of balloting
for ballots submitted other than in person during voting at a meeting held for the purpose of voting, that
balloting is subject to an affirmative vote of a majority of all members eligible to vote, and that no other
vote on the subject shall be taken after the closing date of balloting except for votes cast in person during
voting at a meeting held for the purpose of voting. The notice shall also contain a summary of the board’s
reasons for selling the assets.

(1) The close of balloting for ballots submitted other than in person during voting at a meeting held
for the purpose of voting shall be at least five days prior to any meeting where voting will occur.

(2) Electronic ballots shall be submitted no later than midnight on the date balloting closes for
ballots submitted other than in person during voting at a meeting held for the purpose of voting in order
to be considered valid.

(3) Ballots mailed to the credit union shall be postmarked no later than the closing date of balloting
for ballots submitted other than in person during voting at a meeting held for the purpose of voting and
received within five business days after the closing date of balloting for ballots submitted other than in
person during voting at a meeting held for the purpose of voting in order to be considered valid.

(4) Ballots hand-delivered to the credit union shall be received prior to the close of normal credit
union business hours on the closing date of balloting for ballots submitted other than in person during
voting at a meeting held for the purpose of voting in order to be considered valid.

(5) If more than one method of voting will be used, the notice shall also communicate that members
have the right to vote on the proposed sale through any of the methods of voting designated by the board,
but that members will only be allowed to vote once.

b. The notice may be included in statements or newsletters or on the credit union Web site.

c. The notice may be sent electronically to those members who have opted to receive notices
electronically.

12.11(5) Mailed ballots. If the board voted by majority vote to conduct the vote in whole or in part
by mailed ballot:

a. The secretary shall include the following balloting materials with the notice of balloting:

(1) One ballot, clearly identified as the ballot.

(2) One ballot envelope clearly marked “ballot” with instructions that the completed ballot shall be
placed in that envelope and sealed.

(3) One identification form to be completed so as to include the name, address, signature, and credit
union account number of the voter.
(4) One mailing envelope in which the voter, following instructions provided, shall insert the sealed “ballot” envelope and the identification form. The mailing envelope shall be preaddressed for return to the election committee.

b. If the credit union will also be conducting electronic voting, the mail-in ballot is not required for members who have opted to receive notices or statements electronically, and electronic mail may be used to provide the instructions and notices for the electronic voting procedure.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and placed in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee.

d. If additional voting will be conducted at a meeting of members, the tallies shall be placed in the ballot boxes, and the ballot boxes shall be resealed to be taken to the meeting. If no other voting is scheduled to occur, the election committee shall tally the total votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.11(6) Electronic voting. If the board voted by majority vote to conduct the vote in whole or in part by electronic voting:

a. The secretary shall include with the notice of balloting specific instructions for electronic voting, including how to access and use the electronic voting system, and the period of time in which votes will be taken.

b. For those members who have opted to receive notices or statements electronically, the instructions required under this subrule may be communicated electronically.

c. The electronic voting shall be tallied by the election committee prior to any meeting where voting is also scheduled to take place, and the committee shall take the tallies to the meeting. If no meeting is scheduled for voting, the election committee shall tally the votes and certify the vote count to the board no later than five days after the closing date of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

12.11(7) Absentee ballots—subsequent in-person vote at meeting. If the board of directors, by majority vote, has elected to conduct the vote only in person at a meeting of members, the board may also, by majority vote, utilize absentee ballots when, in the opinion of the board, it is in the best interest of the credit union and its membership.

a. The secretary shall include with the notice of balloting a statement that members may vote either in person at the meeting of members or by absentee ballot if the member submits a written or electronic request for an absentee ballot and returns the ballot prior to the close of balloting for ballots submitted other than in person during voting at a meeting held for the purpose of voting.

b. The secretary shall mail the balloting materials specified in paragraph 12.11(5)“a” to each member who is eligible to vote and who has submitted a written or electronic request for an absentee ballot.

c. Ballots mailed to the election committee or hand-delivered to the credit union shall be received unopened and deposited in ballot boxes. The ballot boxes shall be opened by and the vote tallied by the election committee, the tallies placed in the ballot boxes, and the ballot boxes resealed to be taken to the meeting.

d. At the meeting of members, printed ballots shall be given to those members who have not voted. The completed ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee before the meeting. After the members have been given an opportunity to vote, balloting shall be closed, the ballot boxes opened and the vote tallied by the election committee and added to any previous count of absentee ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.11(8) In-person vote at meeting. If the board voted by majority vote to conduct the vote in whole or in part at a meeting of members, then printed ballots shall be distributed to those in attendance at the meeting who have not voted by another method, and the ballots shall be deposited in ballot boxes placed in conspicuous locations by the election committee. After those members have been given an opportunity to vote at the meeting, balloting shall be closed, the ballot boxes opened and the
vote tallied by the election committee and added to any previous count of mailed or electronic ballots. The election committee shall immediately certify the vote count to the board. The chairperson of the election committee shall announce the result of the vote at the meeting.

12.11(9) Preservation of ballots. Ballots shall be preserved according to the requirements of 189—12.9(533). The 60-day retention period required by subrule 12.9(2) shall run from the date the results are certified to the board by the election committee.

12.11(10) Submission to superintendent. The board of directors shall submit the plan to the superintendent for approval before the plan to sell all of the assets of the corporate central credit union becomes effective. The board shall submit the following documentation in support of its request for approval:
   a. A certified copy of the board minutes which contain the vote of the board of directors to approve the plan and to submit the sale to a vote of the membership.
   b. A certified copy of the notices provided to members.
   c. A certified copy of any ballots provided to members.
   d. A certified statement, including the vote count, that a majority of the eligible members voted in favor of the proposed sale.

12.11(11) Publication of results. The board shall inform the membership of the results of the vote within ten days of certification of the results of the vote by the election committee. The board shall communicate the results to the membership by at least two of the following methods:
   a. By mail.
   b. By e-mail.
   c. By posting a notice on the corporate central credit union’s Web site.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

189—12.12(533) Vote on conversion of an Iowa-chartered credit union to another charter type. An Iowa-chartered credit union that seeks to convert to another charter type shall comply with the conversion procedures, including a vote of the membership, as provided in 189—Chapter 3.

These rules are intended to implement Iowa Code sections 533.201, 533.203, 533.203A, 533.204, 533.208, 533.213, 533.401, 533.403, and 533.405.

[ARC 0938C, IAB 8/7/13, effective 9/15/13]

[Filed emergency 6/30/82—published 7/21/82, effective 7/1/82]
[Filed 8/27/82, Notice 7/21/82—published 9/15/82, effective 10/20/82]
[Filed emergency 8/21/86—published 9/10/86, effective 8/21/86]
[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]
[Filed ARC 0938C (Notice ARC 0769C, IAB 5/29/13), IAB 8/7/13, effective 9/15/13]
CHAPTER 16
DIRECTOR ELECTION—ABSENTEE BALLOT VOTING PROCEDURE
Rescinded ARC 0938C, IAB 8/7/13, effective 9/15/13
CHAPTER 19
AMEND, MODIFY OR REVERSE ACTS OF THE BOARD OF DIRECTORS—
MAILED BALLOT VOTING PROCEDURE
Rescinded ARC 0938C, IAB 8/7/13, effective 9/15/13
CHAPTER 48
HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

223—48.1(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereafter referred to as historic tax credit) for the substantial rehabilitation of eligible commercial property, residential property and barns located in this state is granted to approved projects, subject to availability of the credit, to apply against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432. Historic tax credits are restricted to rehabilitation projects for eligible properties in Iowa. Rehabilitation projects for eligible properties must be conducted in accordance with the federal Standards for Rehabilitation (36 CFR Part 67.7) as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties (hereafter referred to as Standards).

[ARC 9608B, IAB 7/13/11, effective 6/22/11]

223—48.2(303,404A) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(17A,303), 223—1.6(303), 223—13.2(303), 223—22.2(303), and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, the following definitions apply:

“Applicant” means the person, partnership, corporation, qualifying nonprofit organization, or public agency applying for the tax credit. In most cases, this will be the entity holding a fee-simple interest in the property or any other person or entity recognized by the Internal Revenue Code for purposes of the applicable tax benefits. If an application is made by someone other than the fee-simple owner, the application must be accompanied by a written statement signed by the fee-simple owner indicating the fee-simple owner does not object to the applicant claiming the tax credit.

“Assessed value” means the amount of the most current property tax assessment.

“Barn” means an agricultural building or structure, in whatever shape or design, which was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

“Commercial property” means a building used in a trade or business or held for the production of income.

“Disaster recovery project” means an eligible property located in an area declared a disaster area by the governor of Iowa or by the president of the United States. The property must have been physically impacted as a result of the disaster.

“Employment base” means the number of jobs that exist at an eligible property on the date part one of the application is approved.

“Historic tax credit(s)” means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

“Mixed-use property” means an eligible property that includes three or more residential units and may also contain a commercial property component in the same building.

“New permanent jobs” means the number of new jobs that exist at an eligible property within two years of the date on which the tax credit certificate is issued. New permanent jobs are calculated as those over and above the employment base.

“Noncommercial property” means a building not used for a commercial purpose as defined herein.

“Placed in service” means the same as used in Section 47 of the Internal Revenue Code.

“Qualifying nonprofit organization” means an organization, other than governmental bodies, described in Section 501 of the Internal Revenue Code unless the exemption is denied under Section 501, 502, 503 or 504 of the Internal Revenue Code.

“Rehabilitation period” means the period of time during which an eligible property is rehabilitated commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service.

“Reserved tax credit” means the amount of tax credits set aside from the available tax credit fund for an approved project.
“Residential property” means a building with two or fewer residential units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

“Standards” means the Standards for Rehabilitation as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Substantial rehabilitation” means qualified rehabilitation costs that meet or exceed the following: (1) in the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation or at least $50,000, whichever is less; or (2) in the case of noncommercial property, costs totaling at least $25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

“Tax basis” means the same as defined in department of revenue 701—subrule 42.15(3).

“Tax credit year” means the tax year in which a tax credit certificate holder is eligible to redeem a tax credit certificate based on the availability of tax credits for an eligible project.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.3(303,404A) Eligible property. “Eligible property” means property for which a taxpayer may receive the historic preservation and cultural and entertainment district tax credit computed under this chapter and includes all of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

[ARC 9608B, IAB 7/13/11, effective 6/22/11]

223—48.4(303,404A) Qualified and nonqualified rehabilitation costs.

48.4(1) “Qualified rehabilitation costs” means expenditures made for the rehabilitation of eligible property and includes qualified rehabilitation expenditures as defined in Section 47 of the Internal Revenue Code.

a. Qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property.

b. Amounts treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs.

c. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property.

d. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.

48.4(2) Any submission of part three of the application with qualified rehabilitation costs of more than $750,000 shall include a certified statement by a certified public accountant verifying that the expenses statement includes only qualified rehabilitation costs incurred in the time period established in subrule 48.5(2).

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.5(303,404A) Rehabilitation cost limits and amount of credit.

48.5(1) The amount of the tax credit equals 25 percent of the qualified rehabilitation costs incurred for the substantial rehabilitation of eligible property, subject to the provisions in subrule 48.6(8). Rehabilitation projects that do not meet the definition of a substantial rehabilitation are not eligible to receive a historic tax credit.

48.5(2) Computing the tax credit. SHPO shall compute the tax credit based on the final qualified rehabilitation costs documented on part three of the application and shall issue a tax credit certificate pursuant to subrule 48.6(8).
a. For projects for which part two of the application was approved before July 1, 2009: The only costs which may be included on part three of the application are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date, provided that any qualified rehabilitation costs incurred prior to the date on which part two of the application was approved must be qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

b. For projects for which part two of the application was approved on or after July 1, 2009: The only costs which may be included on part three of the application are those qualified rehabilitation costs incurred for the rehabilitation of eligible property during the rehabilitation period, provided that any costs incurred prior to the date on which part two of the application was approved must be qualified rehabilitation expenditures as defined in Section 47(c)(2) of the Internal Revenue Code.

48.5(3) For residential or mixed-use property, the amount of rehabilitation costs shall not exceed $100,000 per residential unit excluding any qualified rehabilitation costs for the public or commercial space and excluding any qualified rehabilitation costs for the weather surfaces of the building envelope including exterior windows and doors. This subrule does not apply to projects for which part two of the application was approved and tax credits were reserved on or after July 1, 2009.

48.5(4) Questions concerning specific tax consequences or interpretation of the state tax code must be addressed to the department of revenue.

48.5(5) Applicants may develop subsequent projects for qualified rehabilitation costs not previously included in a tax credit application for a building which had tax credits previously reserved or awarded. Each subsequent application shall meet eligibility requirements and shall be reviewed individually and independently.

48.5(6) For applicants receiving credits through the small projects fund, the cumulative total for multiple applications for a single building shall not exceed $750,000 in qualified rehabilitation costs. The SHPO will not accept an application by the same owner for a building previously receiving credits through the small projects fund that causes the cumulative total to exceed $750,000. The applicant may either:

a. Apply for the cumulative total of qualified rehabilitation costs under any other fund for which the project is eligible. If the applicant receives a tax credit reservation from another fund, the applicant shall abandon the entirety of the applicant’s tax credit reservation in the small projects fund in accordance with rule 223—48.12(303,404A); or

b. Apply for only the qualified rehabilitation costs up to a cumulative total of $750,000. If the applicant has already received and claimed a tax credit certificate on the applicant’s annual tax return, the applicant shall select this option.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.6(303,404A) Application and review process.

48.6(1) All applications for historic tax credits shall be on the current state fiscal year’s forms and in accordance with the current state fiscal year’s instructions provided by the SHPO. All applications must be complete and include all required supporting documentation before being considered for review and before beginning the review periods outlined in subrule 48.6(3). Application forms are available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. Applications may also be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

a. Part one of the application identifies the eligibility of the property for the historic tax credit. Part one of the application is accepted year-round. Part one of the application must include all requested information. SHPO staff shall notify the applicant if part one of the application is incomplete. Incomplete applications will not be processed.

b. Part two of the application provides a detailed description of the rehabilitation project. Part two of the application is accepted when tax credits are available for the fund specified by the applicant pursuant to subrule 48.7(6) or, if no tax credits are available, in accordance with rule 223—48.8(303,404A). Part two of the application must include all requested information. SHPO staff
shall notify the applicant if part two of the application is incomplete. Incomplete applications will not be processed.

c. Part three of the application provides the information and documentation required to request certification of project completion and includes an economic impact questionnaire. Part three of the application must include all requested information including certification in accordance with subrule 48.4(2). SHPO staff shall notify the applicant if part three of the application is incomplete. Incomplete applications will not be processed. Incomplete applications may be subject to abandonment as outlined in rule 223—48.12(303,404A).

(1) For projects for which part two of the application was approved and tax credits reserved before July 1, 2009, part three of the application shall be submitted within 6 months of the date on which the building is placed in service.

(2) For projects for which part two of the application was approved and tax credits reserved on or after July 1, 2009, part three of the application shall be submitted within 24 months of the date on which the rehabilitation period ends.

d. Amendments to applications. An applicant shall amend an approved part one of the application or an approved part two of the application if the property changes ownership or if the applicant’s name or address changes. An applicant shall amend an approved part two of the application to notify SHPO of, and to request review of, modifications to the original description of the rehabilitation project. Amendments to part two of the application shall not include modification of the rehabilitation costs estimated in the originally approved part two of the application. Amendments to part two of the application shall not result in the reservation of additional tax credits for a project. Amendments to part two will not be accepted after SHPO has approved part three of the application pursuant to subrule 48.6(8). An applicant may amend an approved part three of the application. Any amendment to part three shall meet all requirements applicable to part three. The total application processing fee charged for part three under rule 223—48.16(303,404A) is based on the final qualified rehabilitation costs as reported on the part three amendment.

48.6(2) SHPO staff trained by the National Park Service for reviewing rehabilitation projects to ensure compliance with Standards will review part two and part three of each submitted application.

48.6(3) SHPO staff shall review and respond to each part of a completed or amended application within 90 days of receipt when submitted pursuant to subrule 48.6(1). If an applicant submits more than one part of the application simultaneously, SHPO staff shall review each part sequentially and the 90-day review period for part two or three of the application will begin upon approval of the previous part.

48.6(4) Applicants who undertake rehabilitation projects without prior approval from the SHPO do so at their own risk.

48.6(5) Response to application parts.

a. Review of part one of the application shall result in one of two responses:

(1) The property is eligible for the historic tax credit; or

(2) The property is not eligible for the historic tax credit.

b. Review of part two of the application shall result in one of three responses which may be provided to the department of revenue:

(1) The rehabilitation described in the application is consistent with the historic character of the property or the district in which it is located, and the project meets the Standards. The initial review of part two is a preliminary determination only. A formal certification of rehabilitation shall be issued only after rehabilitation work is completed;

(2) The rehabilitation or proposed rehabilitation described in part two of the application will meet the Standards if the stipulated conditions are met; or

(3) The rehabilitation described in part two of the application is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards. The application will not be approved and SHPO will not reserve tax credits for the project.

c. Review of part three of the application shall result in one of two responses which may be provided to the department of revenue:
(1) The completed rehabilitation meets the Standards and is consistent with the historic character of the property or the district in which it is located. Effective on the date of approval of part three of the application, the project shall be designated a “certified rehabilitation”; or

(2) The rehabilitation is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards. If the work cannot be corrected to meet the Standards, the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A).

48.6(6) Approval of part one of the application. Upon approval of part one of the application, an applicant may proceed to submission of part two of the application. If the applicant submitted part two of the application simultaneously, the SHPO shall complete review of part one of the application before reviewing part two of the application.

48.6(7) Approval of part two of the application.

a. Upon approval of part two of the application with no conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the earliest year in which tax credits are available in the appropriate fund, and the applicant may proceed to implement the project.

b. Upon approval of part two of the application with conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the earliest year in which tax credits are available in the appropriate fund. The applicant may proceed to implement the project, and the applicant shall document compliance with the conditions.

c. An authorized representative of the SHPO, with due notice to the applicant, may inspect projects to determine if the work meets the Standards.

48.6(8) Approval of part three of the application. Upon approval of part three of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the qualified rehabilitation costs as estimated in part two of the application for the tax credit year originally reserved for the project upon approval of part two of the application, unless the qualified rehabilitation costs in part three of the application differ from the estimated qualified rehabilitation costs in part two of the application.

a. If the qualified rehabilitation costs documented in part three of the application are less than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue a certificate in an amount equal to 25 percent of the final qualified rehabilitation costs and return any unused tax credits to the tax credit fund from which they were reserved.

b. For projects with tax credits reserved from the small projects fund and final qualified rehabilitation costs of $750,000 or less: If the final qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue tax credit certificates totaling 25 percent of the final qualified rehabilitation costs, with the initial tax credit certificate issued in the amount originally reserved for the project and the remainder for the earliest year in which tax credits are available in the small projects fund or, if no tax credits are available, in accordance with rule 223—48.8(303,404A).

c. For projects with tax credits reserved from the small projects fund and final qualified rehabilitation costs over $750,000: The SHPO shall notify the applicant that the applicant may either:

   (1) Apply for the cumulative total of qualified rehabilitation costs under any other fund for which the project is eligible. If the applicant receives a tax credit reservation from another fund, the applicant shall abandon the entirety of the applicant’s tax credit reservation in the small projects fund in accordance with rule 223—48.12(303,404A); or

   (2) Claim only the final qualified rehabilitation costs up to $750,000. If the applicant chooses this option, the SHPO shall issue tax credit certificates totaling no more than $187,500 for the project, with the initial tax credit certificate issued in the amount originally reserved for the project and the remainder for the earliest year in which tax credits are available in the small projects fund or, if no tax credits are available, in accordance with rule 223—48.8(303,404A).

d. For projects with tax credits reserved from any other fund: If the final qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs
estimated in part two of the application, the SHPO shall issue tax credit certificates totaling 25 percent of the final qualified rehabilitation costs in the same fund from which tax credits were initially awarded, with the initial tax credit certificate issued for the amount originally reserved for the project and the remainder for the earliest year in which tax credits are available in the appropriate fund or, if no tax credits are available, in accordance with rule 223—48.8(303,404A).

48.6(9) Disaster recovery projects. An applicant may apply for the disaster recovery fund as described in subrule 48.7(3) if the project meets the following requirements:
   a. The initial submittal of part two of the application shall be made no later than the first filing window (see subrule 48.8(2)) that occurs after the five-year anniversary of the disaster declaration date.
   b. Disasters declared before January 1, 2008, will not be considered.

48.6(10) Projects creating new permanent jobs. An applicant may apply for the new permanent jobs fund as described in subrule 48.7(4) if the applicant meets the following requirements:
   a. The applicant shall document the employment base for an eligible property on the date part one of the application is approved;
   b. The applicant must provide information to SHPO documenting the creation of at least 500 new permanent jobs within two years of the date on which the tax credit certificate is issued. This information shall be verified by the Iowa department of economic development using the process outlined in 261—Chapter 188, Iowa Administrative Code. If the Iowa department of economic development is unable to verify the number of new permanent jobs required, tax credits claimed by the applicant will be subject to repayment to the department of revenue and unclaimed credits shall be unavailable; and
   c. The applicant (and any leaseholders or tenants, if applicable) must enter into a contract with the SHPO specifying the employment base, reporting mechanisms required to document 500 new permanent jobs, applicable dates for reporting, and the penalty incurred if reporting requirements are not met. If the contract is not executed before the building is placed in service, the SHPO shall recapture any tax credits reserved in accordance with rule 223—48.12(303,404A).

223—48.7(303,404A) Tax credit funds.
   48.7(1) The small projects fund. The SHPO shall reserve 10 percent of the tax credit allocation for any tax credit year in a small projects fund for projects with final qualified rehabilitation costs totaling $750,000 or less.
      a. At the end of each state fiscal year, any credits in the small projects fund that have not been reserved for small projects shall be available for small projects in subsequent fiscal years.
      b. If the small projects fund is fully reserved, any applications for small projects received after full reservation of the small projects fund may be eligible for the statewide fund.
   48.7(2) The cultural and entertainment district and great places fund. The SHPO shall reserve 30 percent of the tax credit allocation for any tax credit year in a cultural and entertainment district and great places project (CED-GP) fund for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C.
   48.7(3) The disaster recovery fund. The SHPO shall reserve 20 percent of the tax credit allocation for any tax credit year in a disaster recovery fund for projects located in an area declared a disaster area by the governor of Iowa or by the president of the United States. The eligible property must have been physically impacted as a result of the natural disaster as documented in accordance with the current state fiscal year’s forms and instructions. The initial application for the project must be submitted within the time frame provided by subrule 48.6(9).
   48.7(4) The new permanent jobs fund. The SHPO shall reserve 20 percent of the tax credit allocation for any tax credit year in a new permanent jobs fund for projects that involve the creation of more than 500 new permanent jobs within two years of the date on which the tax credit certificate is issued.
   48.7(5) The statewide fund. The SHPO shall reserve the remaining percentage of the tax credit allocation for any tax year in a statewide fund, which is to be used for eligible projects throughout the
state of Iowa. If the statewide fund is fully reserved before the end of the state fiscal year, subsequent applications will be accepted utilizing the procedures in rule 223—48.8(303,404A).

48.7(6) Fund selection. Part two of the application shall clearly indicate the fund for which the applicant is applying. Only one fund may be selected. Any applications not indicating a specific fund shall be considered for the statewide fund. If an application is not eligible for the fund selected, it shall be considered for the statewide fund.

48.7(7) Disposition of unreserved credits. In reference to the new permanent jobs fund, CED-GP fund, and disaster recovery fund, at the end of the filing window in any fiscal year, any tax credits that have not been reserved will be reallocated in the same fiscal year as follows:

a. Unreserved CED-GP fund and new permanent jobs fund credits will be reallocated to the disaster recovery fund.

b. Unreserved disaster recovery fund credits will be reallocated to the statewide fund.

c. For purposes of this subrule, the phrase “in any fiscal year” refers to each of the three fiscal years for which credits may be reserved pursuant to Iowa Code section 404A.4(5) as amended by 2009 Iowa Acts, Senate File 481, section 3.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.8(303,404A) Sequencing of applications for review.

48.8(1) Order of review. The SHPO anticipates the receipt of a large number of applications for historic tax credits for projects with qualified rehabilitation costs in excess of $750,000 at the beginning of each state fiscal year. At the start of each state fiscal year, the SHPO will utilize a project review sequencing and prioritization system to establish the order in which applications will be reviewed.

a. Applications for projects with qualified rehabilitation costs of $750,000 or less applying for credits from the small projects fund will be accepted and reviewed throughout the calendar year until all available credits from that fund are reserved. When all available credits are reserved from the small projects fund, subsequent applications will be accepted utilizing the procedures in subrules 48.8(2) to 48.8(7).

b. If all available credits are reserved before review of all projects submitted within the filing window specified in subrule 48.8(2), applications not reviewed will be returned to the applicant.

48.8(2) Filing window. Part two applications for state historic tax credits received during the first ten working days of the state fiscal year shall be included in a project review sequencing system to determine the order in which they will be reviewed. The filing window for applications submitted in July 2013 will be extended to July 31, 2013.

48.8(3) Initial sequencing process. An initial sorting process based on the status of the project application at the start of the state fiscal year will be used to associate applications with the appropriate initial sequencing category. Following initial sorting into a category and subcategory, each application within the assigned category and subcategory will be sequenced in accordance with subrule 48.8(4).

a. Category A projects do not need to be resubmitted during the filing window and are comprised of two subcategories in the following order:

1) Projects reviewed in the previous year’s sequencing and review process that did not receive a reservation for the full 25 percent of their qualified rehabilitation costs.

2) Projects with final qualified rehabilitation costs documented in part three of the application in excess of the estimated rehabilitation costs in part two pursuant to paragraph 48.6(8) “d” and which could not be otherwise reserved from available credits in the appropriate fund.

b. Category B projects are comprised of projects for which part two of a state historic tax credit application was submitted during any previous year’s filing window, as verified by records maintained at the SHPO, and was included in that year’s sequencing system, and did not receive a tax credit reservation. Category B projects must be resubmitted during the current year’s filing window and must specify a fund pursuant to subrule 48.7(6). Category B projects will be divided into subcategories arranged in the following order:

1) Projects will be included in a subcategory for the state fiscal year of original submission provided the project was included in each successive state fiscal year’s sequencing system and did not
receive a tax credit reservation. These subcategories will be arranged chronologically beginning with the earliest state fiscal year.

(2) Any projects for which applications were not submitted in successive state fiscal years will be included in a subcategory after those defined in subparagraph 48.8(3) “b” (1).

c. Category C projects are comprised of an entirely new part two of a state historic tax credit application not meeting the requirements for any other category and having been received within the specified filing window. Category C projects must be submitted during the current year’s filing window and must specify a fund pursuant to subrule 48.7(6).

48.8(4) Secondary sequencing process. Using a random number generator, SHPO staff will assign unique, random numbers to all applications that are eligible for inclusion in the review sequencing system within each category and subcategory of the initial sequencing system. Applications within each category and subcategory shall then be placed in numeric order from lowest to highest. SHPO staff shall then create a master sequence list, with category A applications, arranged by subcategory, sequenced first; category B applications, arranged by subcategory, sequenced next; and category C applications sequenced last.

48.8(5) Random number generator. SHPO staff shall use a random number generator utility found in Microsoft Excel 2003 or the current version of Microsoft Excel generally used by the department of cultural affairs.

48.8(6) Outside observer. The initial sequencing process, the secondary sequencing process, and the development of the master sequence list will be observed and certified by an official state witness.

48.8(7) Prioritization of review according to fund. Once the master sequence list is set, the projects will be reviewed by fund in the sequential order in which they fall on the list.

a. Category A projects will be reviewed and reserved first. SHPO shall reserve the remaining credits for the project from the same tax credit fund selected by the applicant pursuant to subrule 48.7(6) if a selection was made. Otherwise, SHPO shall reserve the remaining credits for the project from the same tax credit fund from which the original reservation came or from another fund for which the project is eligible.

b. Following review of category A projects, tax credit funds will be reviewed in the following order:

(1) Small projects fund, CED-GP fund, and new permanent jobs fund.
(2) Disaster recovery fund.
(3) Statewide fund.

c. Any tax credits that have not been reserved in a particular fund will be transferred, if applicable, to the appropriate fund as outlined in rule 223—48.7(303,404A). If a fund is exhausted before the completion of reviews for that fund, all remaining projects in that fund shall be eligible for the statewide fund and will be considered in the order shown on the master sequence list.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.9(303,404A) Reserved tax credits.

48.9(1) Upon written approval of part two of the project application, the SHPO shall reserve an estimated tax credit under the name of the applicant(s) in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the earliest year in which tax credits are available.

48.9(2) If the amount of estimated qualified rehabilitation costs changes during the course of project implementation, the applicant may include those costs in part three of the application.

48.9(3) The SHPO shall not reserve tax credits for more than two state fiscal years beyond the current state fiscal year.

48.9(4) Of the amount of tax credits that may be reserved in state fiscal years 2010, 2011, and 2012:

a. For state fiscal year 2010, SHPO will not reserve more than $20 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2009. SHPO will not reserve more than $30 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2010.
b. For state fiscal year 2011, SHPO will not reserve more than $20 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2010. SHPO will not reserve more than $30 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2011.

c. For state fiscal year 2012, SHPO will not reserve more than $20 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2011. SHPO will not reserve more than $30 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2012.

223—48.10(303,404A) Project commencement.

48.10(1) Once a tax credit reservation is made for a project, rehabilitation must begin before the end of the state fiscal year in which the SHPO approved part two of the application. The applicant shall submit to the SHPO a project commencement report and cover letter certifying the commencement date of rehabilitation and outlining expenditure of qualified rehabilitation costs. This report and cover letter are due within the first ten working days of the next state fiscal year. Information about the project commencement report is available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. It may also be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

48.10(2) In the event rehabilitation on a project does not begin before the end of the state fiscal year in which the SHPO approved part two of the application, the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A).

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 8873B, IAB 6/30/10, effective 6/10/10]

223—48.11(303,404A) Project completion and eligible property placed in service.

48.11(1) Once a tax credit reservation is made for a project, construction must be completed and the eligible property must be placed in service as follows:

a. For projects for which part two of the application was approved and tax credits reserved before July 1, 2009: The project shall be completed and the building shall be placed in service on or before June 30, 2011.

b. For projects for which part two of the application was approved and tax credits were reserved on or after July 1, 2009: The project shall be completed and the eligible property shall be placed in service within 60 months of the date on which part two of the application was approved or 72 months of the date on which part two of the application was approved if more than 50 percent of the qualified rehabilitation costs are incurred within 60 months of the date on which part two of the application was approved and the applicant requests the 12-month extension in writing from the SHPO.

(1) If the applicant requests the 12-month extension from the SHPO to complete the project and place the building in service, the applicant must complete a qualified rehabilitation costs schedule and cover letter documenting the expenditure of more than 50 percent of the qualified rehabilitation costs estimated in part two of the application. This report and cover letter are due within 30 days of the end of the 60-month period. Information about the qualified rehabilitation costs schedule is available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. The qualified rehabilitation costs schedule may be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

(2) If the applicant does not request the additional 12 months from the SHPO, the applicant will be held to the requirement that the building be placed in service within 60 months of the date on which part two of the application was approved.

48.11(2) In the event actual construction on a project is not completed and the eligible property is not placed in service within the time period allowed in accordance with subrule 48.11(1), the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A).

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]
223—48.12(303,404A) Abandonment and recapture of tax credit reservation.

48.12(1) Project abandonment due to inability to meet commencement deadline. If the applicant has not provided the SHPO documentation of project commencement in accordance with rule 223—48.10(303,404A), the SHPO shall, by registered U.S. mail or courier sent to the last-known address of the applicant, request that the appropriate documentation be filed within 30 days of the date of the letter. If the SHPO has not received the documentation by the 30-day deadline, then the SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. If either letter is returned as undeliverable, the letter shall be filed and the tax credit reservation processed in accordance with subrule 48.12(5). Application processing fees for part two of the application as allowed by rule 223—48.16(303,404A) will not be returned.

48.12(2) Project abandonment due to inability to meet project completion deadline. If the applicant has not provided the SHPO documentation of project completion in accordance with rule 223—48.11(303,404A), the SHPO shall, by registered U.S. mail or courier sent to the last-known address of the applicant, request that part three of the application be filed within 30 days of the date of the letter. If the SHPO has not received part three of the application by the 30-day deadline, then the SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. If either letter is returned as undeliverable, the letter shall be filed and the tax credit reservation processed in accordance with subrule 48.12(5). Application processing fees for part two of the application as allowed by rule 223—48.16(303,404A) will not be returned.

48.12(3) Project abandonment at the request of an applicant. An applicant may choose to abandon tax credits reserved in accordance with subrule 48.6(7) at any time after the date on which the tax credit was reserved. A tax credit reservation may be voluntarily abandoned for any reason, including abandonment of a reservation from the small projects fund for consideration in another fund in accordance with subrule 48.5(6) or paragraph 48.6(8)"c." Submittal of a new application will require the submittal of a new processing fee. Processing fees for the original part two application(s) as allowed by rule 223—48.16(303,404A) will not be returned. To abandon a tax credit reservation, the applicant shall send a letter to the SHPO requesting that the tax credit project be abandoned. The SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. SHPO shall process the tax credit reservation in accordance with subrule 48.12(5).

48.12(4) Tax credit recapture if part three of the application is not approved. If as part of the SHPO review of part three of the application pursuant to subrule 48.6(5) rehabilitation work is found to be inconsistent with the historic character of the property or the district in which it is located and the applicant is unwilling or unable to correct the work accordingly, the SHPO shall notify the applicant by registered U.S. mail or courier that the tax credit reservation has been recaptured and shall process the tax credit reservation in accordance with subrule 48.12(5).

48.12(5) Tax credit return to appropriate fund. The SHPO shall return any recaptured tax credit reservations to the tax credit fund from which they were reserved.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11]

223—48.13(303,404A) Transfer of tax credit certificate. The applicant may transfer the tax credit certificate to one or more parties in accordance with department of revenue 701—subrule 42.15(6).

223—48.14(303,404A) Redemption of tax credit certificate. The tax credit holder shall attach the tax credit certificate and a copy of the signed part three of the application to the taxpayer’s state income tax return and submit these documents to the department of revenue in the tax year for which the tax credit certificate is valid or the tax year in which the rehabilitation project was completed, whichever is the later.

[ARC 0896C, IAB 8/7/13, effective 7/9/13]
223—48.15(303,404A) Tax credits in excess of tax liability.

48.15(1) An applicant whose tax credit exceeds the tax liability in the tax year for which the tax credit may be redeemed is entitled to a refund of the excess tax credit with interest under Iowa Code section 422.25. See also administrative rules of the department of revenue, particularly rules 701—42.15(422) and 701—52.18(422).

48.15(2) In lieu of a refund, the applicant may have the excess tax credit applied to the tax liability for the following year.

223—48.16(303,404A) Application processing fees. A nonrefundable fee for application processing of parts two and three of an application will be charged for review of requests for certification of a rehabilitation project for historic tax credits. An initial review fee will be due with the filing of part two of an application. An additional fee for review of completed rehabilitation work will be due with the filing of part three of an application. Fees will be based on the amount of qualified rehabilitation costs. The fee schedule is as follows:

<table>
<thead>
<tr>
<th>For projects with qualified rehabilitation costs of:</th>
<th>Part 2 Processing Fee</th>
<th>Part 3 Processing Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$50,000 or less</td>
<td>No cost</td>
<td>No cost</td>
</tr>
<tr>
<td>$50,001 to $100,000</td>
<td>$250</td>
<td>$250</td>
</tr>
<tr>
<td>$100,001 to $500,000</td>
<td>$500</td>
<td>$500</td>
</tr>
<tr>
<td>$500,001 to $1,000,000</td>
<td>$750</td>
<td>0.5 percent of qualified rehabilitation costs (i.e., 0.005 × costs)</td>
</tr>
<tr>
<td>$1,000,001 to $6,000,000</td>
<td>$1,000</td>
<td></td>
</tr>
<tr>
<td>Over $6,000,000</td>
<td>$1,500</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

[ARC 7943B, IAB 7/15/09, effective 6/16/09]

223—48.17(303,404A) Appeals.

48.17(1) Applicants may appeal a decision of the SHPO on any of the following bases:

a. Action was outside statutory authority;

b. Decision was influenced by a conflict of interest;

c. Action violated state law or administrative rules;

d. Insufficient public notice was given; or

e. Alteration of the review and certification process was detrimental to the applicant.

48.17(2) Appeals in writing shall be delivered to the director of the department of cultural affairs within 30 days of the decision giving rise to the appeal. All appeals shall be directed to the Director, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319; telephone (515)281-7471.

48.17(3) All appeals shall contain:

a. The facts of the case;

b. Argument(s) in support of the appeal; and

c. The remedy sought.

48.17(4) The director of the department of cultural affairs shall consider and rule on an appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days. The decision of the director of the department of cultural affairs shall be final except as provided in Iowa Code sections 17A.19 and 17A.20.

48.17(5) Applicants may appeal SHPO decisions provided under subrule 48.6(5) regarding eligibility of a property to be placed on the National Register as determined during part one of the application and review process or regarding whether a proposed scope of work meets the Standards as determined during part two of the application and review process. The SHPO shall provide procedural
guidance to the applicant should the applicant choose to appeal to the National Park Service under this subrule.

[ARC 7943B, IAB 7/15/09, effective 6/16/09]

These rules are intended to implement Iowa Code chapter 303 and chapter 404A as amended by 2009 Iowa Acts, Senate File 481.

[Filed emergency 1/16/01—published 2/7/01, effective 1/16/01]
[Filed emergency 6/27/07—published 7/18/07, effective 6/28/07]
[Filed emergency 6/19/08—published 7/16/08, effective 6/19/08]
[Filed emergency 9/24/08—published 10/22/08, effective 9/24/08]
[Filed Emergency ARC 7943B, IAB 7/15/09, effective 6/16/09]

[Filed Emergency After Notice ARC 8873B (Notice ARC 8721B, IAB 5/5/10), IAB 6/30/10, effective 6/10/10]
[Filed Emergency ARC 9608B, IAB 7/13/11, effective 6/22/11]
[Filed Emergency ARC 0896C, IAB 8/7/13, effective 7/9/13]
CHAPTER 65
BROWNFIELD AND GRAYFIELD REDEVELOPMENT

261—65.1(15) Purpose. The brownfield redevelopment program is designed to provide financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites. The redevelopment tax credit program for brownfields and grayfields is designed to provide financial assistance for the acquisition, remediation, or redevelopment of brownfield and grayfield sites.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.2(15) Definitions. As used in these rules, unless the context otherwise requires, the definitions in Iowa Code section 15.292 shall apply to this chapter. The following definitions shall also apply:

“Acquisition” means the purchase of brownfield or grayfield property.

“Advisory council” means the brownfield redevelopment advisory council as established in Iowa Code section 15.294 consisting of five members.

“Affiliate” or “affiliated entity” means any entity to which one or more of the following applies:

1. The entity directly, indirectly, or constructively controls another entity.
2. The entity is directly, indirectly or constructively controlled by another entity.
3. The entity is subject to the control of a common entity. A common entity is one which owns directly or individually more than 10 percent of the voting securities of the entity.

“Authority” means the economic development authority.

“Board” means the economic development authority board pursuant to 2011 Iowa Code Supplement section 15.102.

“Brownfield site” means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site shall not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq.

“CERCLA” means Comprehensive Environmental Response, Compensation, and Liability Act as defined at 42 U.S.C. 9601 et seq.

“Characterization” means determination of both the nature and extent of contamination in the various media of the environment.

“Community” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“Contaminant” means any hazardous substance found in the various media of the environment.

“Council” means the brownfield redevelopment advisory council, as established in Iowa Code section 15.294.

“Fund” means the brownfield redevelopment fund established pursuant to Iowa Code section 15.293.

“Grant” means the donation or contribution of funds with no expectation or requirement that the funds be repaid.

“Grayfield site” means an industrial or commercial property meeting all of the following requirements:

1. Infrastructure on the property is outdated or prevents an efficient use of the property, including vacant, blighted, obsolete, or otherwise underutilized property.
2. Property improvements and infrastructure are at least 25 years old and one or more of the following conditions exist:
   - Thirty percent or more of a building located on the property is available for occupancy and has been vacated or unoccupied for at least 12 months;
   - Assessed value of improvements on the property has decreased by 25 percent or more;
   - The property is used as a parking lot;
   - Improvements on the property no longer exist.
“Green development” means development which meets or exceeds the sustainable design standards as established by the state building code commissioner pursuant to Iowa Code section 103A.8B.

“Hazardous substance” means “hazardous substance” as defined in 567—Chapter 137 and includes petroleum substances not addressed in 567—Chapter 135.

“Loan” means an award of assistance with the requirement that the award be repaid, and with term, interest rate, and any other conditions specified as part of the award. A deferred loan is one for which the payment of principal or interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A loan guarantee is a third-party commitment to repay all or a portion of the loan in the event that the borrower defaults on the loan.

“Previously remediated or redeveloped” means any prior remediation or redevelopment at a brownfield or grayfield site, including development for which an application for or an award of brownfield or grayfield tax credits has been made.

“Qualifying investment” means costs that are directly related to a qualifying redevelopment project and that are incurred after the project has been registered and approved by the board. “Qualifying investment” only includes the purchase price, the cleanup costs, and the redevelopment costs.

“Qualifying investor” means an applicant who has been accepted by the department to receive a redevelopment tax credit.

“Qualifying redevelopment project” means a brownfield or grayfield site being redeveloped or improved by the property owner. “Qualifying redevelopment project” does not include a previously remediated or redeveloped brownfield or grayfield site.

“Redevelopment” means projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

“Remediation” includes characterization, risk assessment, removal and cleanup of environmental contaminants located on and adjacent to a brownfield site. Funding awards used for remediation must comply with appropriate Iowa department of natural resources requirements and guidelines.

“Risk evaluation” means assessment of risks to human health and environment by way of guidelines established in 567—Chapter 137.

“Sponsorship” means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program in which the city or county agrees to offer assistance or guidance to the applicant. Sponsorship is not required if the applicant is a city or county.

“Sustainable design” means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants including, but not limited to, measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments. Sustainable design standards are also known as green building standards pursuant to Iowa Code section 103A.8B.

261—65.3(15) Eligible applicants. To be eligible to apply for program assistance, an applicant must meet the following eligibility requirements:

65.3(1) Site owner. A person owning a site is an eligible applicant if the site for which assistance is sought meets the definition of a brownfield or grayfield site. The brownfield redevelopment program requires that an applicant has secured a sponsor prior to applying for program assistance. Sponsorship is encouraged but not required for the redevelopment tax credit program for brownfields and grayfields.

65.3(2) Nonowner of site. A person who is not an owner of a site is an eligible applicant if the site meets the definition of a brownfield or grayfield site. The brownfield redevelopment program requires that an applicant has secured a sponsor prior to applying for program assistance. Prior to applying for financial assistance under the brownfield redevelopment program, an applicant who is not an owner of a site shall enter into an agreement with the owner of the brownfield site for which financial assistance is sought. The agreement shall at a minimum include:

a. The total cost for remediating the site.
b. Agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property. Title transfer is not required when the applicant is the owner of the property and no title transfer occurs.

c. Agreement that upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition or redevelopment.

65.3(3) Phased projects ineligible for tax credits. Tax credits for brownfield and grayfield redevelopment are only available for qualifying redevelopment projects. Because a qualifying redevelopment project does not include a previously remediated or redeveloped site, a project for subsequent redevelopment at the same site for which tax credits have already been awarded is not eligible for additional tax credits on redevelopment at that site. The authority and the council will determine whether a project constitutes subsequent redevelopment at the same site by considering the following factors:

a. Whether the redevelopment described in multiple proposed projects is planned for a single parcel.

b. Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.

c. Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.

d. Whether a proposed project is the result of the same planning process as another project.

e. Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.

f. Whether the development of one proposed project reflects a temporal connection to another proposed project.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 0944C, IAB 8/7/13, effective 9/11/13]

261—65.4(15) Eligible forms of assistance and limitations.

65.4(1) Financial assistance. Eligible forms of financial assistance include grants, interest-bearing loans, forgivable loans, loan guarantees, tax credits, and other forms of assistance under the brownfield redevelopment program and the redevelopment tax credit program for brownfields and grayfields established in 2011 Iowa Code Supplement sections 15.292 and 15.293A.

65.4(2) Other forms of assistance. The authority may provide information on alternative forms of assistance.

65.4(3) Limitation on amount. An applicant shall not receive financial assistance of more than 25 percent of the agreed-upon estimated total cost of remediation, acquisition or redevelopment. This limitation does not apply to assistance provided in the form of tax credits pursuant to subrule 65.11(4).

65.4(4) Exclusions. Program funds shall not be used for the remediation of contaminants being addressed under Iowa’s leaking underground storage tank (UST) program. However, a site’s being addressed under the UST program does not necessarily exclude that site from being addressed under the Iowa brownfield redevelopment Act if other nonpetroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.5(15) Repayment to economic development authority. Under the brownfield redevelopment program only, upon the subsequent sale of the property by an applicant to a person other than the original owner, the applicant shall repay the authority for financial assistance received by the applicant. The repayment shall be in an amount equal to the sales price less the amount paid to the original owner pursuant to the agreement between the applicant and the original owner. The repayment amount shall not exceed the amount of financial assistance actually disbursed to the applicant by the authority.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]
261—65.6(15) Application and award procedures.

65.6(1) Subject to availability of funds, applications to the brownfield redevelopment program will be reviewed and rated by economic development authority staff and by the advisory council on an annual basis. Brownfield redevelopment funds will be awarded on a competitive basis.

65.6(2) Subject to availability of funds, applications to the redevelopment tax credit program for brownfields and grayfields will be reviewed by economic development authority staff and the advisory council on a monthly basis.

65.6(3) Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. Recommendations from the advisory council will be submitted to the board. The board may approve, deny or defer an application.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.7(15) Application.

65.7(1) Every application for assistance shall include evidence of sponsorship and any other information the authority deems necessary in order to process and review the application. An application shall be considered received by the authority only when the authority deems it to be complete. Applications for assistance shall also include the following information:

a. A business plan. The business plan should, at a minimum, include a remediation plan, a project contact/applying agency, a project overview (which would include the background of the project area, goals and objectives of the project, and implementation strategy), and a project/remediation budget.

b. A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.

65.7(2) The authority shall accept and review applications in conjunction with the council and the board. The council shall consider applications in the order complete applications are received and make application recommendations to the board. The board shall approve or deny applications.

65.7(3) Upon review of the application for the redevelopment tax credit program for brownfields and grayfields, the authority may register the project under the program. If the authority registers the project, it shall, in conjunction with the council and the board, make a preliminary determination as to the maximum amount of the tax credit for which the investor qualifies. After registering the project, the authority shall issue a letter notifying the investor of successful registration under the program. The letter shall include the maximum amount of tax credit for which the investor has received preliminary approval and shall state that the amount is a preliminary determination only. The preliminary determination is not a contract, contract term, promise, guarantee, assurance, or representation of the actual tax credit the investor will receive or should expect to receive. The preliminary determination is a nonbinding figure, provided purely for the investor’s and the authority’s information and convenience, based on the authority’s existing understanding and estimates related to the project. The amount of tax credit included on a certificate issued pursuant to this subrule shall be contingent upon completion of the requirements of subrules 65.7(4) to 65.7(6) and shall be based solely on completion and compliance with all terms and conditions of the contract pursuant to this rule, rule 261—65.10(15), and 2011 Iowa Code Supplement sections 15.293A and 15.293B.

65.7(4) Approved applicants shall enter into an agreement with the authority. The agreement for the redevelopment tax credit program for brownfields and grayfields shall specify the requirements necessary in order to receive tax credit and the maximum amount of tax credit available. The agreement for the brownfield redevelopment program shall specify the requirements necessary in order to receive benefits under the program.

65.7(5) Upon completion of a registered project under the redevelopment tax credit program for brownfields and grayfields, an audit of the project’s qualifying expenses shall be completed by an independent certified public accountant licensed in the state of Iowa and shall be submitted to the authority.

65.7(6) Upon written notification of project completion from the investor, the authority will review the independent audit, verify the amount of the qualifying investment and issue a redevelopment tax
credit certificate to the investor in the amount of the tax credit for which the investor is entitled under its contract with the authority.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.8(15) Application forms. Application forms for the brownfield redevelopment program and the redevelopment tax credit program for brownfields and grayfields shall be available upon request from Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. The authority may provide technical assistance as necessary to applicants. Authority staff may conduct on-site evaluations of proposed activities.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.9(15) Application review criteria. Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed and prioritized based on the following criteria:

1. Whether the project meets the definition of a brownfield site.
2. Whether alternative forms of assistance have been explored and used by the applicant.
3. The level of distress or extent of the problem on the site has been identified.
4. Whether the site is on or proposed to be added to the U.S. Environmental Protection Agency’s list of CERCLA sites.
5. The degree to which awards secured from other sources are committed to the subject site.
6. The leveraging of other public and private resources beyond the 75 percent minimum required.
7. Type and terms of assistance requested.
8. Rationale that the project serves a public purpose.
9. The level of economic and physical distress within the project area.
10. Past efforts of the community/owner to resolve the problem.
11. Ability of the applicant to outline the goals and objectives of the project and describe the overall strategy for achieving the goals and objectives.
12. Ancillary off-site development as a result of site remediation.

[ARC 7844B, IAB 6/17/09, effective 7/22/09]

261—65.10(15) Administration of awards.

65.10(1) A contract shall be executed between the recipient and the authority. These rules and applicable state laws and regulations shall be part of the contract.

65.10(2) The recipient must execute and return the contract to the authority within 45 days of transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

65.10(3) Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

65.10(4) Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

65.10(5) Awards may be conditioned upon the authority’s receipt and approval of an implementation plan for the funded activity.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.11(15) Redevelopment tax credit.

65.11(1) Purpose. The purpose of the redevelopment tax credit program is to make tax credits available for a redevelopment project investment. The authority may cooperate with the department of natural resources and local governments in an effort to disseminate information regarding the redevelopment tax credit.

65.11(2) Eligible applicant. An individual, partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual may claim a redevelopment tax credit. Once an applicant is deemed eligible, the applicant shall be considered a qualifying investor for a redevelopment tax credit. A city or county may not apply for a redevelopment tax credit.
65.11(3) Tax credit certificate.

a. Issuance. The authority shall issue a redevelopment tax credit certificate upon completion of the project and submittal of proof of completion by the qualified investor. The tax credit certificate shall contain the qualified investor’s name, address, tax identification number, the amount of the credit, the name of the qualifying investor, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

b. Acceptance. The tax credit certificate, unless rescinded by the board, shall be accepted by the Iowa department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and to Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of this rule, for a portion of a taxpayer's equity investment in a qualifying redevelopment project.

c. Transfer. Tax credit certificates issued under this rule may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the Iowa department of revenue, including a statement with the transferee's name, tax identification number, address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the Iowa department of revenue.

d. Replacement certificate. Within 30 days of receiving the transferred tax credit certificate and the transferee’s statement, the Iowa department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate.

e. Claiming a transferred tax credit. A tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration paid or received for the transfer of the tax credit shall not be included or deducted as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.329.

65.11(4) Amount of tax credit.

a. Pro rata share. The qualified investor may claim the amount based upon the pro rata share of the qualified investor’s earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the qualified investor’s liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the qualified investor receives the tax credit.

b. Percentage. The amount of the tax credit shall equal one of the following:

(1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.

(2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).

(3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.

(4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).

c. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 65.11(4)“d.”

d. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits issued by the authority shall not exceed $1 million. For the fiscal year beginning July 1, 2011, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the board but not in excess of $5 million.
65.11(5) Claiming a tax credit. The qualified investor must attach one or more tax credit certificate(s) to the qualified investor’s tax return. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2009. The tax credit certificate or certificates attached to the qualified investor’s tax return shall be issued in the qualified investor’s name, expire on or after the last day of the taxable year for which the qualified investor is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the qualified investor’s tax return.

65.11(6) Reduction of tax credit.
   a. Taxes imposed under Iowa Code section 422.11V, less the credits allowed under Iowa Code sections 422.12, 422.33, 422.60, 432.12L, and moneys and credits imposed under Iowa Code section 533.329 shall be reduced by a redevelopment tax credit allowed under Iowa Code sections 15.291 to 15.294.
   b. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the redeveloped property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the credit computed under this rule.

65.11(7) Project completion.
   a. An investment shall be deemed to have been made on the date the qualifying redevelopment project is completed. An investment made prior to January 1, 2009, shall not qualify for a tax credit under this rule.
   b. A registered project shall be completed within 30 months of the project’s approval unless the authority, with the approval of the board, provides additional time to complete the project. A project shall not be provided more than 12 months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit.
   c. Failure to comply. If a taxpayer receives a tax credit pursuant to 2011 Iowa Code Supplement section 15.293A, but fails to comply with any of the requirements, the taxpayer loses any right to the tax credit. The Iowa department of revenue shall seek recovery of the value of the credit the qualified investor received.

65.11(8) Tax credit carryover. If the maximum amount of tax credits available has not been issued at the end of the fiscal year, the remaining tax credit amount may be carried over to a subsequent fiscal year or the authority may prorate the remaining credit amount among other eligible applicants.

65.11(9) Authority registration and authorization. The authority shall develop a system for registration and authorization of tax credits. The authority shall control distribution of all tax credits distributed to investors, including developing and maintaining a list of tax credit applicants from year to year to ensure that if the maximum aggregate amount of tax credits is reached in one year, an applicant can be given priority consideration for a tax credit in an ensuing year.

65.11(10) Other financial assistance considerations. If a qualified investor has also applied to the authority, the board, or any other agency of state government for additional financial assistance, the authority, the board, or the agency of state government shall not consider the receipt of a tax credit issued pursuant to this rule when considering the application for additional financial assistance.

261—65.12(15) Review, approval, and repayment requirements of redevelopment tax credit.

65.12(1) A qualified investor seeking to claim a tax credit pursuant to 2011 Iowa Code Supplement sections 15.293A and 15.293B shall apply to the authority, and applications shall be reviewed by the council as established in 2011 Iowa Code Supplement section 15.294. The council shall recommend to the board the tax credit amount available for each qualifying redevelopment project.

65.12(2) A qualified investor shall provide to the authority, the council and the board all of the following:
   a. Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.
b. Information about the financing sources of the investment which is directly related to the qualifying redevelopment project for which the taxpayer is seeking approval for a tax credit, as provided in 2011 Iowa Code Supplement section 15.293A.

These rules are intended to implement 2011 Iowa Code Supplement sections 15.291 to 15.295.

[Filed emergency 8/18/00—published 9/6/00, effective 8/18/00]

[Filed 10/23/00, Notice 9/6/00—published 11/15/00, effective 12/20/00]

[Filed ARC 7844B (Notice ARC 7706B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]

[Filed Emergency ARC 9746B, IAB 9/7/11, effective 8/19/11]

[Filed ARC 0007C (Notice ARC 9747B, IAB 9/7/11), IAB 2/8/12, effective 3/14/12]

[Filed ARC 0944C (Notice ARC 0686C, IAB 4/17/13), IAB 8/7/13, effective 9/11/13]
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HEALTH CARE FACILITIES ADMINISTRATION

481—50.1(10A) Inspections. The health facilities division inspects health care facilities, hospitals, and providers and suppliers of medical services in Iowa. Standards to obtain a license are explained in this chapter.

481—50.2(10A) Definitions.
“Administrator” means the person coordinating the administration of the division.
“Department” means the department of inspections and appeals.
“Director” means the director of inspections and appeals.
“Division” means the health facilities division.

481—50.3(135B,135C) Licensing. All hospitals and health care facilities shall be licensed by the department. Applications are available from the Health Facilities Division, Lucas State Office Building, Des Moines, Iowa 50319-0083. Completed applications are returned to the division with the fee.

50.3(1) Initial fees for hospitals are:
   a. Fifty beds or less, $15;
   b. More than 50 and not more than 100 beds, $25;
   c. Any greater number of beds, $50.

   A fee of $10 is charged to renew a hospital license each year.

50.3(2) Initial and renewal fees for health care facilities are:
   a. Ten beds or less, $20;
   b. More than 10 and not more than 25 beds, $40;
   c. More than 26 and not more than 75 beds, $60;
   d. More than 76 and not more than 150 beds, $80;
   e. Any greater number of beds, $100.

50.3(3) Standards used to determine whether a license is granted or retained are found in the rules of the department of inspections and appeals in the Iowa Administrative Code as follows:
   a. Hospitals, 481—Chapter 51;
   b. Hospices, 481—Chapter 53;
   c. Residential care facilities, 481—Chapters 57 and 60;
   d. Nursing facilities, 481—Chapters 58 and 61;
   e. Residential care facilities for persons with mental illness, 481—Chapters 60 and 62;
   f. Residential care facilities for the intellectually disabled, 481—Chapters 60 and 63;
   g. Intermediate care facilities for the intellectually disabled, 481—Chapter 64; and
   h. Intermediate care facilities for persons with mental illness, 481—Chapter 65.

50.3(4) Posting of license. The license shall be posted in each facility so the public can see it easily.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—50.4(135C) Fines and citations. A fine or citation will be issued and may be contested according to the rules in 481—Chapter 56.

481—50.5(135C) Denial, suspension or revocation.
50.5(1) A denial, suspension or revocation shall be effective 30 days after certified mailing or personal service of the notice.
50.5(2) A hearing may be requested and the request must be made in writing to the department within 30 days of the mailing or service.

481—50.6(10A) Formal hearing. All decisions of the division may be contested. Appeals and hearings are controlled by 481—Chapter 10, “Contested Case Hearings.”
50.6(1) The proposed decision of the hearing officer becomes final ten 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 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) The decision of the director shall be based upon the record and becomes final agency action upon mailing by certified mail.

50.6(4) The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the district court and shall be paid by the party to the proceeding at whose request the subpoena is issued.

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

50.7(1) Of any accident causing major injury.
   a. “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. The following are not reportable accidents:
      (1) An ambulatory resident, as defined in rules 481—57.1(135C), 481—58.1(135C), and 481—63.1(135C), who falls when neither the facility nor its employees have culpability related to the fall, even if the resident sustains a major injury; or
      (2) Spontaneous fractures; or
      (3) Hairline fractures.

50.7(2) When damage to the facility is caused by a natural or other disaster.

50.7(3) When there is an act that causes major injury to a resident or when a facility has knowledge of a pattern of acts committed by the same resident on another resident that results in any physical injury. For the purposes of this subrule, “pattern” means two or more times within a 30-day period.

50.7(4) When a resident elopes from a facility. For the purposes of this subrule, “elopes” means when a resident who has impaired decision-making ability leaves the facility without the knowledge or authorization of staff.

50.7(5) When a resident attempts suicide, regardless of injury.

50.7(6) When a fire occurs in a facility and the fire requires the notification of emergency services, require full or partial evacuation of the facility, or causes physical injury to a resident.

50.7(7) 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.)

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, which require reporting of dependent adult abuse.

481—50.8(22,135B,135C) Records. The division collects and stores a variety of records in the course of licensing and inspecting health care facilities. Some information stored may be personally identifiable. None is retrievable by personal identifier with the exception of a business which uses an individual’s name in the title. All records stored by the health facilities division are kept in files under the name of a facility. Computer files are retrieved by facility name also.
50.8(1) The department maintains information about long-term care facilities in files which are organized by facility name, city, and county. No information is retrievable by personal identifier. Each long-term care facility record contains both open and confidential information.

a. Open information includes:
   (1) License application and status,
   (2) Variance requests and responses,
   (3) Final findings of state and Medicaid survey investigations,
   (4) Records of complaints,
   (5) Reports from the fire marshal,
   (6) Plans of correction submitted by the facility,
   (7) Medicaid status,
   (8) Official notices of license and Medicaid sanctions.

b. Confidential information includes:
   (1) Survey or investigation information which does not comprise a final finding. Survey information which does not comprise a final finding may be made public in a proceeding concerning the citation of a facility, denial, suspension or revocation of a license, Iowa Code section 135C.19(1),
   (2) Names of all complainants, Iowa Code sections 135C.19(1) and 135C.37,
   (3) Names of patients in all facilities, identifying medical information and the address of anyone other than an owner, Section 1106 of the Social Security Act as amended, 42 CFR Part 401, Subpart B (October 1, 1986) and Iowa Code sections 22.9 and 135C.19(1).

50.8(2) The department maintains records about hospitals. The records are organized by facility name, city, and county. The records are not retrievable by personal identifier. The Joint Commission on the Accreditation of Healthcare Organizations is referred to as JCAHO, and the American Osteopathic Association is referred to as AOA in this rule. These records may contain both open and confidential information.

a. Open information includes:
   (1) License status,
   (2) Medicare certification status,
   (3) Medicare survey reports,
   (4) Plans of correction submitted by a hospital,
   (5) Official notices of involuntary provider termination or license sanctions,
   (6) For hospitals not certified by JCAHO or AOA, reports of the fire marshal,
   (7) Final survey findings of the JCAHO and the AOA with respect to compliance by a hospital with the requirements for licensure or accreditation.

b. Confidential information includes:
   (1) Names of patients and identifying medical information,
   (2) Identity of any complainant, and
   (3) The address of anyone other than the owner, Iowa Code section 135B.12 and Section 1106 of the Social Security Act, 42 CFR Part 401, Subpart B (October 1, 1986) and Iowa Code section 22.9.

   Rescinded IAB 2/19/92, effective 3/25/92.

   (5) No information may be disclosed in a manner which will identify individuals or hospitals except in a proceeding concerning the question of license or the denial, suspension or revocation of a license, Iowa Code section 135B.12.

50.8(3) The department maintains files for all other Medicare-certified facilities. These files are organized by facility or agency name, city, and county. None is retrievable by personal identifier except when a business uses an individual’s name in its title. These files contain both open and confidential information.

a. Open information includes:
   (1) Certification status,
   (2) Survey reports,
   (3) Plans of correction,
   (4) Official notices of involuntary provider termination,
(5) Proficiency test results for non-JCAHO or AOA accredited hospitals, Medicare laboratories and laboratories licensed under the clinical Laboratory Improvement Act.
   a. Confidential information includes:
      (1) Name of any patient,
      (2) Medical information about any identifiable patient,
      (3) The identity of any complainant, and
      (4) The address of anyone other than an owner of the facility, Section 1106 of the Social Security Act, 43 CFR, Part 401, Subpart B (October 1, 1986), and Iowa Code section 22.9.
   50.8(4) Rescinded IAB 3/31/04, effective 5/5/04.
   50.8(5) Following a written request and payment of a fee in the amount determined by the department, one or more of the following lists may be obtained by the public.
      a. Corporations which own more than one facility and the list of facilities owned by each corporation.
      b. All the facilities in the state with the owner of the real estate property identified.
      c. All corporations that lease facilities and the facilities they lease.
      d. All corporations which manage facilities for other owners and the facilities they manage.
      Requests are sent to Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

481—50.9(135C) Criminal, dependent adult abuse, and child abuse record checks.

50.9(1) Definitions. The following definitions apply for the purposes of this rule.
   “Background check” or “record check” means criminal history, child abuse and dependent adult abuse record checks.
   “Certified nurse aide training program” means a program approved in accordance with the rules for such programs adopted by the department of human services for the training of persons seeking to be a certified nurse aide for employment in a facility as defined by this rule or in a hospital as defined in Iowa Code section 135B.1.
   “Direct services” means services provided through person-to-person contact. “Direct services” excludes services provided by individuals such as building contractors, repair workers, or others who are in a facility for a very limited purpose, are not in the facility on a regular basis, and who do not provide any treatment or services for residents, patients, tenants, or participants of the provider.
   “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.
      “Employee” means any individual who is paid either by the facility or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors).
   “Evaluation” means review by the department of human services to determine whether a founded child abuse, dependent adult abuse or criminal conviction warrants prohibition of the person’s employment in a facility; or whether a founded child abuse, dependent adult abuse or criminal conviction warrants prohibition of a student’s involvement in a clinical education component of the certified nurse aide training program involving children or dependent adults.
   “Facility,” for purposes of this rule, means all of the following if the provider is regulated by the state or receives any federal or state funding:
      1. A health care facility licensed under Iowa Code chapter 135C;
      2. A home health agency;
      3. A hospice.
   “Indirect services” means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.
“Student” means a person applying for, enrolled in, or returning to a certified nurse aide training program.

50.9(2) Explanation of “crime.” For purposes of this rule, the term “crime” does not include offenses under Iowa Code chapter 321 classified as simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction.

50.9(3) Requirements for employer prior to employing an individual. Prior to employment of a person in a facility, the facility shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state.

a. Informing the prospective employee. A facility shall ask each person seeking employment by the facility, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under Iowa Code chapter 321 or equivalent provisions, in this state or any other state?” In addition, the person shall be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted. (I, II, III)

b. Conducting a background check. The facility may 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, if applicable, with the background check request. If the SING is not used, the facility must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services. (I, II, III)

c. If a person being considered for employment has been convicted of a crime. If a person being considered for employment in a facility has been convicted of a crime under a law of any state, the department of public safety shall notify the facility that upon the request of the facility the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the facility. (I, II, III)

d. If a person being considered for employment has a record of founded child or dependent adult abuse. If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a facility has a record of founded child or dependent adult abuse, the department of human services shall notify the facility that upon the request of the facility the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of the person’s employment in the facility. (I, II, III)

e. Employment pending evaluation. The facility may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person’s employment.

(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;

(2) The person does not have a record of founded child or dependent adult abuse;

(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2(1); and

(4) The facility has requested that the department of human services perform an evaluation to determine whether the crime warrants prohibition of the person’s employment. (I, II, III)

50.9(4) Validity of background check results. The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the facility. (I, II, III)

50.9(5) Employment prohibition. A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a facility unless an evaluation has been performed by the department of human services. (I, II, III)

50.9(6) Transfer of an employee to another facility owned or operated by the same person. If an employee transfers from one facility to another facility owned or operated by the same person, without a lapse in employment, the facility is not required to request additional criminal and child and dependent adult abuse record checks of that employee. (I, II, III)
50.9(7) Transfer of ownership of a facility. If the ownership of a facility is transferred, at the time of transfer the background check required by this rule shall be performed for each employee for whom there is no documentation that such background check has been performed. The facility may continue to employ such employee pending the performance of the background check and any related evaluation. (I, II, III)

50.9(8) Change of employment—person with criminal or abuse record—exception to record check evaluation requirements. A person with a criminal or abuse record who is or was employed by a facility and is hired by another facility shall be subject to the background check.

a. A reevaluation of the latest record check is not required, and the person may commence employment with the other facility if the following requirements are met:

(1) The department of human services previously performed an evaluation concerning the person’s criminal or abuse record and concluded the record did not warrant prohibition of the person’s employment;

(2) The latest background check does not indicate a crime was committed or founded abuse record was entered subsequent to the previous evaluation;

(3) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed;

(4) Any restrictions placed on the person’s employment in the previous evaluation by the department of human services and still applicable shall remain applicable in the person’s subsequent employment; and

(5) The person subject to the background check has maintained a copy of the previous evaluation and provided it to the subsequent employer, or the previous employer provides the previous evaluation from the person’s personnel file pursuant to the person’s authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, a current record check evaluation shall be performed. (I, II, III)

b. For purposes of this subrule, a position is “substantially the same or has the same job responsibilities” if the position requires the same certification, licensure, or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of nursing; a certified nurse aide does not have substantially the same or the same job responsibilities as a licensed nurse.

c. The subsequent employer must maintain the previous evaluation in the employee’s personnel file for verification of the exception to the requirement for a record check evaluation. (I, II, III)

d. The subsequent employer may request a reevaluation of the background check and may employ the person while the reevaluation is being performed, even though an exemption under paragraph 50.9(8) “a” may be authorized.

50.9(9) Employee notification of criminal conviction or founded abuse after employment. If a person employed by a facility employer that is subject to this rule is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person’s employment application date, the person shall inform the employer of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

a. The employer shall act to verify the information within 48 hours of notification. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the facility shall follow the requirements of paragraphs 50.9(3) “c” and “d.” (I, II, III)

c. The employer may continue to employ the person pending the performance of an evaluation by the department of human services.
d. A person who is required by this subrule to inform the person’s employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

e. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under this subrule.

50.9(10) Facility receipt of credible information that an employee has been convicted of a crime or has a record of founded abuse. If the facility receives credible information, as determined by the facility, from someone other than the employee, that the employee has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment, and the employee has not informed the employer of the information within the time required by subrule 50.9(9), the facility shall take the following actions:

a. The facility shall act to verify credible information within 48 hours of receipt. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the facility shall follow the requirements of paragraphs 50.9(3) “c” and “d.” (I, II, III)

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

50.9(12) Certified nurse aide training program students. Prior to a student’s beginning or returning to a certified nurse aide training program, the program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks, in this state, of the student.

a. Prohibition of involvement in clinical education. If a student has a criminal record or a record of founded child or dependent adult abuse, the student shall not be involved in a clinical education component of the certified nurse aide training program involving children or dependent adults unless an evaluation has been performed by the department of human services. The evaluation shall be performed upon request of the certified nurse aide training program.

b. Involvement in clinical education component pending evaluation. The training program may allow the student’s participation in the clinical education component for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the student’s participation in the clinical education component.

1. The student’s clinical education component of the training program involves children or dependent adults but does not involve the operation of a motor vehicle;

2. The student does not have a record of founded child or dependent adult abuse;

3. The student has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2(1); and

4. The training program has requested that the department of human services perform an evaluation to determine whether the crime warrants prohibition of the student’s involvement in the clinical education component.

c. Student notification of criminal conviction or founded abuse after performance of record checks and evaluation. If a student is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the record checks and any evaluation have been performed, the
student shall inform the certified nurse aide training program of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

(1) The program shall act to verify the information within 48 hours of notification. “Verify,” for purposes of this paragraph, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents. If the information is verified, the program shall follow the requirements of paragraph 50.9(12) “a” to determine whether or not the student’s involvement in a clinical education component may continue.

(2) The program may allow the student involvement to continue pending the performance of an evaluation by the department of human services.

(3) A student who is required to inform the program of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

(4) The program may notify the county attorney for the county where the program is located of any violation or failure by a student to notify the program of a criminal conviction or entry of an abuse record within the period required by this paragraph.

d. Program receipt of credible information that a student has been convicted of a crime or has a record of founded abuse. If a program receives credible information, as determined by the program, that a student has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after the record checks and any evaluation have been performed, from a person other than the student, and the student has not informed the program of such information within 48 hours, the program shall act to verify the credible information within 48 hours of receipt of the credible information. “Verify,” for purposes of this paragraph, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents. If the information is verified, the requirements of paragraph 50.9(12) “a” shall be applied to determine whether or not the student’s involvement in a clinical education component may continue.

e. Completion of a certified nurse aide training program conducted by the health care facility. If a certified nurse aide training program is conducted by the facility and a student of that program accepts and begins employment with the facility within 30 days of completing the program, the background check of the student performed prior to beginning the training program shall fulfill the criminal and abuse background check requirements. The facility shall maintain the proof required in subrule 50.9(11). (I, II, III)

This rule is intended to implement Iowa Code section 135C.14 and section 135C.33 as amended by 2013 Iowa Acts, Senate File 347.

[ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—50.10(135C) Inspections, exit interviews, plans of correction, and revisits.

50.10(1) Frequency of inspection. The department shall inspect a licensed health care facility at least once within a 30-month period. Facilities participating in the Medicare or Medicaid programs may be inspected more frequently as a part of a joint state and federal inspection.

50.10(2) Accessibility of records, the facility, and persons. An inspector of the department may enter any licensed health care facility without a warrant and may examine all records pertaining to the care provided to residents of the facility. An inspector of the department may contact or interview any resident, employee, or any other person who might have knowledge about the operation of a health care facility. The inspector may duplicate records and take photographs as part of the inspection.
50.10(3) **Exit interviews.** The health care facility shall be provided an exit interview at the conclusion of an inspection, and the facility representative shall be informed of all issues and areas of concern related to the deficiencies.

   a. **Methods of conducting exit interview.** The department may conduct the exit interview either in person or by telephone.

   b. **Second exit interviews.** The department shall conduct a second exit interview if any additional areas of concern are identified.

50.10(4) **Submission of additional or rebuttal information.** The facility shall be provided two working days from the date of the exit interview to submit additional or rebuttal information to the department.

   a. **Receipt of additional information.** Additional or rebuttal information must be received by the department within two working days in order to be considered.

   b. **Methods to submit additional information.** The additional or rebuttal information may be submitted via E-mail, facsimile, or overnight courier to the department.

   c. **Inform of the opportunity to submit additional or rebuttal information.** During the inspection, the facility shall be informed of the opportunity to submit additional or rebuttal information and of the contact information for the department.

50.10(5) **Standards for determining whether a deficiency exists.** The department shall use a preponderance of the evidence standard when determining whether a regulatory deficiency exists. For purposes of this rule and rule 481—50.11(135C), “preponderance of the evidence standard” means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations or deficiency is more likely true than not true. This standard does not require that the inspector personally witnessed the alleged violation.

50.10(6) **Statement of deficiencies.** When one or more deficiencies are found, a statement of deficiencies detailing each deficiency shall be sent by the department to the health care facility within ten working days of the exit interview.

50.10(7) **Plan of correction.** Within ten working days following receipt of the statement of deficiencies, the health care facility shall submit a plan of correction to the department.

   a. **Contents of plan.** The plan of correction shall contain the following information:

      (1) How the facility will correct the deficient practice;

      (2) How the facility will act to protect residents;

      (3) The measures the facility will take or the systems it will alter to ensure that the problem does not recur;

      (4) How the facility plans to monitor its performance to make sure that solutions are sustained; and

      (5) Date(s) when corrective action will be completed.

   b. **Review of plan.** The department shall review the plan of correction within ten working days of receipt. The department may request additional information or revisions to the plan, which shall be provided as requested.

50.10(8) **Revisits.** If a facility licensed under this chapter is subject to or will be subject to denial of payment including payment for Medicare or medical assistance (Medicaid) under Iowa Code chapter 249A, or denial of payment for all new admissions pursuant to 42 CFR Section 488.417, and submits a plan of correction relating to the deficiencies or a response to a citation issued under 481—Chapter 56 and the department elects to conduct an on-site revisit inspection, the department shall commence the revisit inspection within the shortest time feasible of the date that the plan of correction is received or the date specified within the plan of correction alleging compliance, whichever is later.

50.10(9) **Appeals of statement of deficiencies.** The facility may appeal the statement of deficiencies by filing an appeal request with the department within 20 working days after receipt of the statement of deficiencies. The procedures defined in rule 481—50.6(10A) shall be followed for the appeal.

[ARC 8433B, IAB 12/30/09, effective 2/3/10]

481—50.11(135C) **Complaint and self-reported incident investigation procedure.**

50.11(1) **Complaint.** The process for filing a complaint is 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 Web site address https://dia-hfd.iowa.gov/DIA_HFD/Home.do.

b. When the nature of the complaint is outside the department’s authority, the department shall forward the complaint or refer the complainant to the appropriate investigatory entity.

c. The complainant shall include as much of the following information as possible in the complaint: the complainant’s name, address and telephone number; the complainant’s relationship to the facility or resident; and the reason for the complaint.

d. The complainant’s name shall be confidential information and shall not be released by the department.

e. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the facility.

f. If the department, upon preliminary review, determines that the complaint is intended as harassment or is without a reasonable basis, the department may dismiss the complaint.

50.11(2) Self-reported incident. When the facility is required pursuant to rule 481—50.7(10A,135C) or other requirements to report an incident, the facility shall make the report to the department via:

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

b. Mail by sending the self-report to the Department of Inspections and Appeals, Complaint/Incident Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083;

c. The complaint/incident hotline, 1-877-686-0027; or

d. Facsimile sent to (515)281-7106.

50.11(3) Time frames for investigation of complaint or self-reported incident. The following guidelines shall be used for determining the time frame in which an on-site inspection of the facility shall be initiated:

a. Immediate jeopardy situation. Within 2 working days for a complaint or self-reported incident determined by the department to be an alleged immediate jeopardy situation. For purposes of this rule, “immediate jeopardy situation” means a situation in which the facility’s alleged noncompliance with Iowa Code chapter 135C, or rules adopted pursuant thereto, has caused or is likely to cause, serious injury, harm, impairment, or death to a resident.

b. High-level nonimmediate jeopardy situation. Within 10 days for nursing facilities and within 20 working days for intermediate care facilities and residential care facilities for a complaint or self-reported incident determined by the department to be an alleged high-level nonimmediate jeopardy situation. For purposes of this rule, “high-level nonimmediate jeopardy situation” means the alleged noncompliance with Iowa Code chapter 135C, or rules adopted pursuant thereto, may have caused harm that negatively impacts the resident’s mental, physical, or psychosocial status and is of such consequence to the resident’s well-being that a rapid response is warranted.

c. Other nonimmediate jeopardy situation. Within 45 calendar days for a complaint or self-reported incident determined by the department to be an alleged nonimmediate jeopardy situation, other than a high-level nonimmediate jeopardy situation. For purposes of this rule, “other nonimmediate jeopardy situation” means a situation that is not a high-level nonimmediate jeopardy situation where the alleged noncompliance with Iowa Code chapter 135C, or rules adopted pursuant thereto, may cause harm of limited consequence and does not significantly impair the individual’s mental, physical, or psychosocial status or function.

d. No inspection of facility-reported incidents. The department may determine not to institute an inspection of a self-reported incident using criteria including, but not limited to, the following:

(1) There is no evident deficiency on the part of the facility, and the facility has taken appropriate measures to address the situation; or
(2) There is a potential deficiency but:
1. The facility has taken appropriate measures to address the situation;
2. The facility does not have a recent history of identified deficiency similar to or related to the incident being reported;
3. A complaint has not been filed regarding the incident being reported; and
4. The resulting injury does not cause a significant negative impact to the resident’s quality of life.

50.11(4) Standard for determining whether a complaint or self-reported incident is substantiated. The department shall apply a preponderance of the evidence standard in determining whether a complaint or self-reported incident is substantiated.

50.11(5) Notification of program and complainant. The department shall notify the facility and, if known, the complainant of the findings of the complaint investigation. The department shall also notify the complainant, if known, if the department does not investigate a complaint, and the reasons for not investigating the complaint shall be included in the notification.

50.11(6) Process for complaint and self-reported incident. The department and facility shall follow the process outlined in rule 481—50.10(135C), as applicable, when conducting or responding to a complaint or self-reported incident investigation.

[ARC 8433B, IAB 12/30/09, effective 2/3/10]

481—50.12(135C) Requirements for service. At each inspection, the facility shall provide the most current contact information for the purpose of service of departmental notices. A statement of deficiencies or citation shall be served upon a facility using one of the following methods.

50.12(1) Electronic mail. If a facility has electronic mail, electronic mail shall be used for service of statements of deficiencies and citations. If electronic mail is used, the following shall be complied with:
   a. The department shall send the electronic message return receipt requested. The response from the return receipt shall officially document receipt of the service and the date of receipt.
   b. A facility shall allow the electronic return receipt to be returned to the department and shall not delay the sending of the return receipt.
   c. If the department has not received the return receipt within three business days of sending the service via electronic mail, the department shall contact the facility to verify the receipt of the service.

50.12(2) Certified mail. If a facility does not have access to electronic mail, the service shall be sent via certified mail, return receipt requested.

50.12(3) Personal service. The department may choose to personally serve the notice upon the health care facility by delivering a copy of the statement of deficiencies or citation to the health care facility and presenting the copy to the facility.

[ARC 8433B, IAB 12/30/09, effective 2/3/10]

481—50.13(135C) Inspectors’ conflicts of interest.

50.13(1) Conflicts. Any of the following circumstances disqualifies an inspector from inspecting a particular health care facility licensed under Iowa Code chapter 135C:
   a. The inspector currently works or, within the past two years, has worked as an employee or employment agency staff at the health care facility, or as an officer, consultant, or agent for the health care facility to be inspected.
   b. The inspector has any financial interest or any ownership interest in the facility. For purposes of this paragraph, indirect ownership, such as through a broad-based mutual fund, does not constitute a financial or ownership interest.
   c. The inspector has an immediate family member who has a relationship with the facility as described in subrule 50.13(1), paragraphs “a” and “b.”

50.13(2) Immediate family member. For purposes of this rule, “immediate family member” means the same as set forth in 42 CFR 488.301, and includes a husband or wife; natural or adoptive
parent, child, or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; or grandparent or grandchild.

[ARC 8433B, IAB 12/30/09, effective 2/3/10]

These rules are intended to implement Iowa Code sections 22.11 and 135B.3 to 135B.7 and Iowa Code chapters 10A and 135C.

[Filed 6/25/87, Notice 4/8/87—published 7/15/87, effective 8/19/87]
[Filed 1/16/91, Notice 11/28/90—published 2/6/91, effective 3/13/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 3/25/92]
[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]
[Filed 7/24/08, Notice 4/9/08—published 8/13/08, effective 9/17/08]
[Filed ARC 8433B (Notice ARC 8190B, IAB 10/7/09), IAB 12/30/09, effective 2/3/10]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
CHAPTER 57
RESIDENTIAL CARE FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 57]

481—57.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicate those standards are mandatory. The use of the words “should” and “could” indicate those standards are recommended.

57.1(1) “Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

57.1(2) “Administrator” means a person approved and certified by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

57.1(3) “Alcoholic” means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

57.1(4) “Ambulatory” means the condition of a person who immediately and without aid of another is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

57.1(5) “Basement” means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

57.1(6) “Board” means the regular provision of meals.

57.1(7) “Communicable disease” means a disease caused by the presence of viruses or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

57.1(8) “Department” means the state department of inspections and appeals.

57.1(9) “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.

57.1(10) “Drug addiction” means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 204.

57.1(11) “Medication” means any drug including over-the-counter substances ordered and administered under the direction of the physician.

57.1(12) “Nonambulatory” means the condition of a person who immediately and without aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

57.1(13) “Personal care” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

57.1(14) “Program of care” means all services being provided for a resident in a health care facility.

57.1(15) “Qualified intellectual disabilities professional” means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year’s experience working with persons with an intellectual disability.

57.1(16) “Rate” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

57.1(17) “Responsible party” means the person who signs or cosigns the admission agreement required in 481—57.14(135C) or the resident’s guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the resident’s admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of social services, veteran’s administration, religious groups, fraternal
organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

57.1(18) “Restraints” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

57.2(1) To request a variance, the licensee must:
   a. Apply for variance in writing on a form provided by the department of inspections and appeals;
   b. Cite the rule or rules from which a variance is desired;
   c. State why compliance with the rule or rules cannot be accomplished;
   d. Explain alternate arrangements or compensating circumstances which justify the variance;
   e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

57.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:
   a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
   b. If the request meets the above criteria, evaluate the alternate arrangements of compensating circumstances against the requirement of the rules;
   c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
   d. Consult with the applicant if additional information is required.

57.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

481—57.3(135C) Application for licensure.

57.3(1) Initial application and licensing. In order to obtain an initial residential care facility license for a residential care facility which is currently licensed the applicant must:
   a. Meet all of the rules, regulations, and standards contained in 481—Chapters 57 and 60;
   b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;
   c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;
   d. 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, and designation of the use to which room will be put and window and door location;
   e. Submit a photograph of the front and side elevation of the facility;
   f. Submit the statutory fee for a residential care facility license;
   g. Comply with all other local statutes and ordinances in existence at the time of licensure;
   h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

57.3(2) In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility, the applicant must:
   a. Meet all of the rules, regulations, and standards contained in 481—Chapters 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply;
   b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;
c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;

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

e. Submit a photograph of the front and side of the residential care facility;

f. Submit the statutory fee for a residential care facility license;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

57.3(3) Renewal application. In order to obtain a renewal of the residential care facility license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of residential care facility license;

b. Submit the statutory license fee for a residential care facility with the application for renewal;

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

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

57.3(4) Licenses are issued to the person or governmental unit which has 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.

481—57.4(135C) Special categories. Special variations and considerations may be granted a residential care facility which is operated for people who have special problems such as intellectual disabilities, physical disabilities, have a physical or mental disability or a condition in common which can best be treated in a specialized environment under an approved program of care commensurate with the needs of the residents of the facility. Criteria for these specialized programs shall be established by the department based on the résumé of programs and services furnished by the facility and the numbers and qualifications of the administrator and staff providing these services in the facility.

57.4(1) Such a facility shall be provided with the kind of equipment, numbers of qualified staff, and operated in such fashion as to meet the requirements of the department.

57.4(2) On approval of the department, the state fire marshal, the department of human services, or other appropriate agencies, other variations from the established rules and regulations and standards for a licensed health care facility of that category may be made as is necessary to successfully implement the specialized program, providing that it does not endanger the health, safety, or welfare of any resident and that alternate means to effect the same degree of protection shall be used when such variances are permitted.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.5(135C) General requirements.

57.5(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

57.5(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.5(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.5(4) Licenses expire one year after the date of issuance or as indicated on the license.

57.5(5) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)
481—57.6(135C) Notifications required by the department. The department shall be notified:

57.6(1) Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents may be admitted until the minimum staffing requirements are achieved; (III)

57.6(2) Of any proposed change in the residential care facility’s functional operation or addition or deletion of required services; (III)

57.6(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility or on the premises; (III)

57.6(4) Thirty days in advance of closure of the residential care facility; (III)

57.6(5) Within two weeks of any change in administrator; (III)

57.6(6) When any change in the category of license is sought; (III)

57.6(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility, the licensee shall:

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

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

   c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

57.6(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a residential care facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility’s licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

481—57.7(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—57.8(135C) Licenses for distinct parts.

57.8(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

57.8(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 them within that part; (III)

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

   c. The distinct part must be operationally and financially feasible;

   d. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

   e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

481—57.9(135C) Administrator. Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

57.9(1) The administrator shall be at least 18 years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

   a. Be a licensed nursing home administrator; or (III)

   b. Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)
c. Have two years of supervised experience in a residential care facility, at least six months of which was in an administrative capacity. (III)

57.9(2) The administrator may act as an administrator for not more than two residential care facilities. (II)
   a. The distance between the two facilities shall be no greater than 50 miles. (II)
   b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)
   c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

57.9(3) The licensee may be the approved administrator providing the licensee meets the requirements set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

57.9(4) A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace the administrator provided the department has been notified prior to the date of the administrator’s appointment. (III)

57.9(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:
   a. Be knowledgeable of the operation of the facility; (III)
   b. Have access to records concerned with the operation of the facility; (III)
   c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
   d. Be at least 18 years of age; (III)
   e. Be empowered to act on behalf of the licensee during the administrator’s absence concerning the health, safety, and welfare of the residents; (III)
   f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

57.9(6) An administrator of only one facility shall be considered as a full-time employee. Full-time employment is defined as 40 hours per week. (III)

481—57.10(135C) Administration.

57.10(1) The licensee shall:
   a. Assume the responsibility for the overall operation of the residential care facility; (III)
   b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)
   c. Establish written policies, which shall be available for review, for the operation of the residential care facility. (III)

57.10(2) The administrator shall:
   a. Be responsible for the selection and direction of competent personnel who provide services for the resident care program; (III)
   b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)
   c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
   d. Make available the residential care facility payroll records for departmental review as needed. (III)

481—57.11(135C) General policies.

57.11(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work and attendance at educational programs. (III)
57.11(2) There shall be a written job description developed for each category of worker in facilities of more than 15 beds. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

57.11(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

a. Employees shall have a physical examination before employment. (I, II, III)
b. Employees shall have a physical examination at least every four years. (I, II, III)
c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.11(4) Health certificates for all employees shall be available for review. (III)


57.11(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident, which includes the individuals to be contacted in case of emergency. (III)

57.11(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

57.11(8) The residential care facility shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

57.11(9) Each facility licensed as a residential care facility shall provide an organized continuous 24-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

57.11(10) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

57.11(11) Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)
b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
c. Dressings, soaks, or packs; (I, II, III)
d. Infection identification; (I, II, III)
e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
f. Sanitation techniques for resident care equipment; (I, II, III)
g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)
h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Adminstration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

57.11(12) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.
a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—57.12(135C) Personnel.

57.12(1) General qualifications.

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility. (II)

c. 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, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

d. Reserved.

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual’s ability to perform the duties of the job. (III)

57.12(2) Supervision and staffing.

a. Staffing.

(1) In a facility that is licensed for more than one level of care, where the facility consists of a single building or of contiguous buildings, the department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility, based on the needs of the residents in that facility.

(2) In a facility licensed only for residential care the facility shall provide the following minimum staffing ratios of personal care staff:

Days—1:25 or less (II, III)

Evenings—1:35 or less (II, III)

Nights—1:45 or less (II, III)

Additional staffing above the minimum ratio may be required by the department commensurate with the needs of individual residents.

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed at all times in facilities over 15 beds. (II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II, III)

d. Physician’s orders shall be implemented by qualified personnel. (II, III)

57.12(3) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse
checks, and dependent adult abuse checks and to employment of individuals who have committed a
crime or have a founded abuse. (I, II, III)
[ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—57.13(135C) Admission, transfer, and discharge.

57.13(1) General admission policies.
   a. No resident shall be admitted to or retained in a residential care facility who is in need of greater
      services than the facility can provide. (II, III)
   b. No residential care facility shall admit more residents than the number of beds for which it is
      licensed. (II, III)
   c. There shall be no more beds erected than is stipulated on the license. (II, III)
   d. There shall be no more beds erected in a room than its size and other characteristics will permit.
      (II, III)
   e. The admission of a resident to a residential care facility shall not give the facility or any
      employee of the facility the right to manage, use, or dispose of any property of the resident except
      with the written authorization of the resident or the resident’s legal representative. (III)
   f. The admission of a resident shall not grant the residential care facility the authority or
      responsibility to manage the personal affairs of the resident except as may be necessary for the safety
      of the resident and safe and orderly management of the residential care facility as required by these
      rules. (III)
   g. A residential care facility shall provide for the safekeeping of personal effects, funds, and other
      property of its residents. The facility may require that items of exceptional value or which would convey
      unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping.
      (III)
   h. Rescinded, effective 7/14/82.
   i. Funds or properties received by the residential care facility, belonging to or due a resident,
      expendable for the resident’s account, shall be trust funds. (III)
   j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults
      unless given prior written approval by the department. A distinct part of a health care facility, segregated
      from the adult section, may be established based on a program of care submitted by the licensee or
      applicant which is commensurate with the needs of the residents of the health care facility and has
      received the department’s review and approval. (III)
   k. No health care facility, and no owner, administrator, employee or representative thereof shall
      act as guardian, trustee, or conservator for any resident’s property, unless such resident is related to the
      person acting as guardian within the third degree of consanguinity. (III)
   l. Upon the verified petition of the county board of supervisors, the district court may appoint the
      administrator of a county care facility as conservator or guardian or both of a resident of such county care
      facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator
      may establish either separate or common bank accounts for cash funds of such resident wards. (III)

57.13(2) Discharge or transfer:
   a. Prior notification shall be made to the next of kin, legal representative, attending physician, and
      sponsoring agency, if any, prior to transfer or discharge of any resident. (III)
   b. Proper arrangements shall be made by the residential care facility for the welfare of the resident
      prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal
      representative. (III)
   c. The licensee shall not refuse to discharge or transfer a resident when the physician, family,
      resident, or legal representative requests such transfer or discharge. (II, III)
   d. Advance notification by telephone will be made to the receiving facility prior to the transfer of
      any resident. (III)
   e. When a resident is transferred or discharged, the appropriate record as set forth in 57.16(1) will
      accompany the resident. (II, III)
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 sent. (II, III)

481—57.14(135C) Contracts. Each contract shall:

57.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

57.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subsection 2; (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

57.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator; (III)

57.14(4) Include the total fee to be charged initially to the specific resident; (III)

57.14(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident’s condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must be also given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (III)

57.14(6) State the terms of agreement in regard to refund of all advance payments, in the event of transfer, death, voluntary, or involuntary discharge; (III)

57.14(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident’s responsible party.

a. The facility shall ask the resident or responsible party if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

57.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

57.14(9) State the conditions of voluntary discharge or transfer; (III)

57.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

57.14(11) Each party shall receive a copy of the signed contract. (III)
481—57.15(135C) Physical examinations.

57.15(1) Each resident in a residential care facility shall have a designated licensed physician, who may be called when needed. (III)

57.15(2) Each resident admitted to a residential care facility shall have had a physical examination prior to admission. (II, III)

   a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident’s record. (II, III)

   b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident’s name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

   c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

57.15(4) Rescinded, effective 7/14/82.

57.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident’s condition. (I, II, III)

57.15(6) Each resident shall be visited by or shall visit the resident’s physician at least once each year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

57.15(7) Residents shall be admitted to a residential care facility only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

This rule is intended to implement Iowa Code section 135C.23(2).

[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—57.16(135C) Records.

57.16(1) Resident record. The licensee shall keep a permanent record on all residents admitted to a residential care facility with all entries current, dated, and signed. (III) The record shall include:

   a. Name and previous address of resident; (III)
   b. Birth date, sex, and marital status of resident; (III)
   c. Church affiliation; (III)
   d. Physician’s name, telephone number, and address; (III)
   e. Dentist’s name, telephone number, and address; (III)
   f. Name, address, and telephone number of next of kin or legal representative; (III)
   g. Name, address, and telephone number of person to be notified in case of emergency; (III)
   h. Mortician’s name, telephone number, and address; (III)
   i. Pharmacist’s name, telephone number, and address; (III)
   j. Physical examination and medical history; (III)
   k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
   l. Physician’s orders for medication, treatments, and diet in writing and signed by the physician quarterly; (III)
   m. A notation of yearly or other visits to physician or other professional services; (III)
   n. Any change in the resident’s condition; (II, III)
   o. If the physician has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medications, treatments, and diet prescribed by the physician for each resident; (III)
If the physician has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)

Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)

A notation describing condition on admission, transfer, and discharge; (III)

In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)

A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

Disposition of valuables. (III)

57.16(2) Incident record.

Each residential care facility shall maintain an incident record report and shall have available incident report forms. (III)

Report of incidents shall be in detail on a printed incident report form. (III)

The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)

The report shall cover all accidents whether there is apparent injury or where hidden injury may have occurred. (III)

The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

A copy of the incident report shall be kept on file in the facility. (III)

57.16(3) Retention of records.

Records shall be retained in the facility for five years following termination of services. (III)

Records shall be retained within the facility upon change of ownership. (III)

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. (III)

57.16(4) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

57.16(5) Personnel record.

An employment record shall be kept for each employee consisting of the following information: Name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

The personnel records shall be made available for review upon request by the department. (III)

481—57.17(135C) Resident care and personal services.

Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

Rescinded, effective 7/14/82.

Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)
57.17(6) Residents shall not be required to pass through another’s bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

57.17(7) Rescinded, effective 7/14/82.

57.17(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

57.17(9) Residents shall be required to bathe at least twice a week. (II, III)

57.17(10) Nonambulatory residents.
   a. All nonambulatory residents shall be housed on the grade level floor. (II)
   b. These provisions in paragraph “a” above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.

481—57.18 Rescinded, effective 7/14/82.

481—57.19(135C) Drugs.

57.19(1) Drug storage.
   a. Residents who have been certified in writing by the physician as capable of taking their own medications, may retain these medications in their bedroom but locked storage must be provided. (III)
   b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:
      (1) A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)
      (2) A bathroom shall not be used for drug storage; (III)
      (3) The drug storage cabinet shall be kept locked when not in use; (III)
      (4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medications; (II)
      (5) Schedule II drugs, as defined by Iowa Code chapter 204, shall be kept in a locked box within the locked medication cabinet; (II, III)
      (6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)
      (7) Drugs for external use shall be stored separately from drugs for internal use; (III)
      (8) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I, II)
      (9) The drug cabinet shall have a work counter. Both the counter and cabinet shall be well-lighted; (III)
      (10) Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)
      (11) Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician’s order, and drugs improperly stored. (III)
      (12) Double-locked storage of Schedule II drugs shall not be required under single-unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)
   c. Bulk supplies of prescription drugs shall not be kept in a residential care facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

57.19(2) Drug safeguards.
   a. All prescribed medications shall be clearly labeled indicating the resident’s full name, physician’s name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug.
Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident’s full name, physician’s name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medication for each resident shall be kept or stored in the original containers. (II, III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident’s record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

i. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident’s current medications. Discontinued drugs shall be destroyed by a responsible person with a witness and notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to keep possession of any medications unless the attending physician has certified in writing on the resident’s medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

m. Each facility shall establish a policy in conjunction with a licensed pharmacist to govern distributing prescribed medication to residents who are on leave from a facility. (III)

(1) Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 57.19(2) “a,” “non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident’s name, the facility, the medication, its strength, dose, and time of administration.

(2) Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

(3) Medication distributed as above may be issued only by facility personnel responsible for administering medication.

57.19(3) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall:
(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;

(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program’s pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph “d” of this subrule do not apply to this individual.

g. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day that they are administered, (II) unless the unit dose system is used.

h. Injectable medications shall be administered by a qualified nurse or physician.

i. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to “h” above or as otherwise authorized by the resident’s physician. Authorization by the physician shall:

(1) Be in writing,

(2) Be maintained in the resident’s record,

(3) Be renewed quarterly,

(4) Include the name of the individual authorized to administer the insulin,

(5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

j. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

k. The unit dose system may be used by the facility.

l. In a freestanding residential care facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

481—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents to obtain regular and emergency dental services. (III)

57.20(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist’s office. (III)

57.20(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident’s physician shall be advised of the resident’s dental problems. (III)

57.20(4) All dental reports or progress notes shall be included in the clinical record. (III)

57.20(5) Personal care staff shall assist the resident in carrying out dentist’s recommendations. (III)

57.20(6) Dentists shall be asked to participate in the in-service program of the facility. (III)
481—57.21(135C) Dietary.

57.21(1) Dietary staffing.

a. In facilities licensed for over 15 beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over 15 beds. (III)

57.21(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician’s orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

(1) Milk - two or more cups served as beverage or used in cooking;

(2) Meat group - two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group - four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group - four or more servings of whole-grain, enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

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 substantial evening meal and breakfast. (II, III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (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 service 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 departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

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

57.21(3) Dietary storage, food preparation, and service.

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II, III)

b. The use of foods from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

(1) No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II, III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)
g. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

57.21(4) Sanitation in food preparation area.


b. Residents shall not be allowed in the food preparation area. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II, III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II, III)

f. All appliances and work areas shall be kept clean. (III)

g. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds. (III)

h. A schedule for duties to be performed daily shall be posted in each food area. (III)

i. All cooking equipment in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)

n. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities over 15 beds, a mechanical dishwasher is required. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (76°C) to 180°F (82°C). In a freestanding residential care facility licensed for 15 or fewer beds, a wash and rinse temperature of 140°F (60°C) to 160°F (71°C) shall be acceptable. (III)

t. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

57.21(5) Hygiene of food service personnel.
a. Food service personnel shall be free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II, III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area. (III)

c. Hairnets shall be worn by all food service personnel. Individuals with beards shall provide for total enclosure of facial hair. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good hand-washing techniques. A hand-wash sink shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

57.21(6) Food and drink. All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II, III)

481—57.22(135C) Service plan.

57.22(1) Prior to admission of a resident, the administrator or the administrator’s designee shall develop a written and organized orientation plan. The plan shall be designed to assist the resident in adapting to the facility and to assist the facility staff in becoming knowledgeable of the resident and the resident’s needs. (III)

57.22(2) Within 30 days of admission, the administrator or the administrator’s designee shall, in conjunction with the resident, other facility staff or any organization that works with or serves the resident, develop a written, individualized, and integrated program of ongoing services for the resident. (III)

a. The program shall be planned and implemented to address the resident’s priorities and assessed needs, such as living, rehabilitation, activity, behavioral, emotional, mental health and social, and shall take into consideration the resident’s personal goals and preferences, including the resident’s preferred living situation. (III)

b. The service plan shall include specific goals and objectives with regular documentation of each. (III)

c. The service plan shall be reviewed at least quarterly, or more often as necessary. (III)

57.22(3) Communications related to service plan changes or changes in the resident’s condition shall occur within five working days of the change, and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident’s family members or responsible party. (III)

481—57.23(135C) Resident activities program.

57.23(1) Each residential care facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident’s physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The activity program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)
57.23 (2) Coordination of activities program.

a. Each residential care facility with over 15 beds shall employ a person to direct the activities program. (III)

b. Staffing for the activity program shall be provided on the minimum basis of 45 minutes per licensed bed per week. (II, III)

c. The activity coordinator shall have completed the activity coordinators’ orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

57.23 (3) Duties of activity coordinator. The activity coordinator shall:

a. Have access to all residents’ records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Record individual resident progress notes at least every three months; (III)

(3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

57.23 (4) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

1 Emergency, pursuant to Iowa Code section 17A.5(2) ’b’(2).

2 Objection filed 2/14/79, see insert IAC 3/7/79.

481—57.24 (135C) Resident advocate committee. Each facility shall have a resident advocate committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for resident advocate committees promulgated by the department on aging. (II)

57.24 (1) Role of committee in complaint investigations.

a. The department shall notify the facility’s resident advocate committee of a complaint from the public. The department shall not disclose the name of a complainant.

b. The department may refer complaints to the resident advocate committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department on aging. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation or the investigation.

c. When the department investigates a complaint, upon conclusion of its investigation, it shall notify the resident advocate committee and the department on aging of its findings, including any citations and fines issued.

d. Results of all complaint investigations addressed by the resident advocate committee shall be forwarded to the department within ten days of completion of the investigation.
57.24(2) The resident advocate committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.

57.24(3) When requested, names, addresses and telephone numbers of family members shall be given to the resident advocate committee, unless the family refuses. The facility shall provide a form on which a family member may refuse to have the family member’s name, address or telephone number given to the resident advocate committee.

This rule is intended to implement Iowa Code section 135C.25.

481—57.25(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

57.25(1) Fire safety.
   a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)
   b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

57.25(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)
   a. The plan shall be posted. (III)
   b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

57.25(3) Resident safety.
   a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when under direct supervision. (II, III)
   b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)
   c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)
   d. Smoking shall be permitted only in posted areas. (II, III)
   e. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (II, III)

57.25(4) Restraints.
   a. Rescinded, effective 7/14/82.
   b. Residents shall not be kept behind locked doors;
   c. Temporary seclusion of residents shall be used only in an emergency to prevent injury to the resident or to others pending transfer to appropriate placement;
   d. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident’s room;
   e. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

481—57.26(135C) Housekeeping.

57.26(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

57.26(2) Each resident unit shall be cleaned on a routine schedule. (III)

57.26(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

57.26(4) A hallway or corridor shall not be used for storage of equipment. (III)

57.26(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

57.26(6) Clothing worn by personnel shall be clean and washable. (III)

57.26(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)
57.26(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)
57.26(9) Polishes used on floors shall provide a nonslip finish. (III)
57.26(10) Throw or scatter rugs shall not be permitted. (III)
57.26(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)
57.26(12) Residents shall not have access to storage areas for all cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials. (II, III)
57.26(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)
57.26(14) Personal possessions of residents which may constitute hazards to themselves or to others shall be removed and stored. (III)

481—57.27(135C) Maintenance.
57.27(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be established in writing and available for review by the department. (III)
57.27(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)
57.27(3) Draperies and furniture shall be clean and in good repair. (III)
57.27(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)
57.27(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electric code. (III)
57.27(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)
57.27(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)
57.27(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)
57.27(9) The facility shall be kept free of flies, other insects, and rodents. (III)
57.27(10) Janitor closet.
  a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)
  b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)
  c. In facilities licensed for over 15 beds, a janitor’s closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor’s sink for emptying scrub pails. (III)

481—57.28(135C) Laundry.
57.28(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)
57.28(2) Except for related activities, the laundry room shall not be used for other purposes. (III)
57.28(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)
57.28(4) Residents’ personal laundry shall be marked with an identification. (III)
57.28(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)
57.28(6) If laundry is done in the facility, the following shall be provided:
  a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)
  b. In facilities of over 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)
481—57.29(135C) Garbage and waste disposal.

57.29(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

57.29(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

57.29(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.29(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

57.29(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—57.30(135C) Buildings, furnishings, and equipment.

57.30(1) Buildings—general requirements.

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-fourth inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates except closets used for the storage of residents’ clothing. (III)

j. All stairways in resident-occupied areas shall have substantial handrails on both sides. (III)

k. Each open stairway shall have protective barriers. (III)

l. Screens of 16 mesh per square inch shall be provided at all openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident-occupied areas shall have general lighting switched at the entrance to each room. (III)

57.30(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department’s approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

d. Night lights shall be provided in corridors, at stairways, attendant’s stations and residents’ bedrooms, and hazardous areas with no less than one foot-candle throughout the area at all times. (III)
57.30(3) Dining and living rooms.

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 57.30(3)“e” are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment.

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably furnished. (III)

(3) When space is provided to be used only for activities and recreational purposes, the area shall be at least 15 square feet per licensed bed. At least 50 percent of the required area must be in one room. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) When space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

57.30(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident’s personal wishes shall be considered. (III)

e. There shall be drawer space for each resident’s clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. There shall be a wardrobe or closet in each resident’s room. Minimum clear dimensions shall be 1’10” deep by 1’8” wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident’s needs. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in the resident’s room. (III)

l. Each room shall have sufficient accessible mirrors to serve residents’ needs. (III)

m. Usable floor space of a room shall be no less than eight feet in any major dimension. (III)

n. Bedrooms shall have a minimum of 80 square feet of usable floor space per bed. (III)

o. There shall be no more than four residents per room. (III)
p. Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

57.30(5) Bath and toilet facilities.
   a. Provision shall be made for bars to hold individual towels and washcloths. (III)
   b. All lavatories shall have paper towel dispensers and an available supply of soap. (III)
   c. Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each 10 residents, and one tub or shower for each 15 residents or fraction thereof. (III)
   d. There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over 15 beds. Separate toilets for the sexes shall be provided. (III)
   e. Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of 250 pounds for five minutes. (III)
   f. Each toilet room shall have a door. (III)
   g. All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)
   h. Toilet and bath facilities shall have an aggregate outside window area of at least four square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)
   i. Every facility shall provide a toilet and lavatory with grab bars for the public and staff. (III)

57.30(6) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

57.30(7) Water supply.
   a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)
   b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)
   c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)
   d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
   e. Hot and cold running water under pressure shall be available in the facility. (III)
   f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

57.30(8) Sewage system.
   a. Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)
   b. Private sewage systems shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)
   c. Every facility shall have an interior plumbing system complete with flushing device. (III)

57.30(9) Attendant’s station. In facilities over 15 beds, an attendant’s station with a minimum of 40 square feet shall be provided which is centrally located in the resident area and shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

481—57.31(135C) Family and employee accommodations.
   57.31(1) Children under 14 years of age shall not be allowed into the service areas. (III)
   57.31(2) The residents’ bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)
   57.31(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)
57.31(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

57.31(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—57.32(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

481—57.33(135C) Environment and grounds.

57.33(1) A residential care facility shall be constructed in a neighborhood free from excessive noise, dirt, polluted, or odorous air, or similar disturbances. (III)

57.33(2) There shall be an area available for outdoor activities calculated at 25 square feet per licensed bed. Open air porches may be included in meeting such requirements. (III)

481—57.34(135C) Supplies.

57.34(1) Linen supplies.

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom of odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

57.34(2) First aid kit. A first aid emergency kit shall be available on each floor in every facility. (II, III)

57.34(3) General supplies.

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

481—57.35(135C) Residents’ rights in general.

57.35(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions (subrules 57.35(2) to 57.35(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

57.35(2) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents’ physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

57.35(3) Policies and procedures regarding the use of chemical and physical restraints shall define the use of restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

57.35(4) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)
57.35(5) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents’ records. (II)

57.35(6) 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, or in the case of residents already in the facility, upon the facility’s adoption or amendment of residents’ rights policies. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents’ rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or the resident’s responsible party, if applicable, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents’ rights and responsibilities. Appropriate means shall be utilized to inform non-English speaking, deaf or blind residents of changes. (II)

57.35(7) Each resident or responsible party shall be fully informed in a contract as required in rule 57.14(135C), prior to or at the time of admission and during the resident’s stay, of services available in the facility, and of related charges not covered by the facility’s basic per diem rate. (II)

57.35(8) Each resident or responsible party shall be fully informed by a physician of the resident’s health and medical condition unless medically contraindicated (as documented by a physician in the resident’s record). Each resident shall be afforded the opportunity to participate in the planning of the resident’s total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services protection from research risks policy and then only upon the resident’s informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident’s medical condition and be afforded the opportunity to participate in the planning of the resident’s total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident’s condition is contraindicated, this decision and reasons for it shall be documented in the resident’s record by the physician. (II)
d. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident’s (or responsible party’s) written informed consent must be received prior to participation. (II)

57.35(9) In residential care facilities which are also county care facilities, policies and procedures shall address the admission and retention of persons with histories of dangerous and disturbing behavior. For the purpose of this subrule, persons with histories of dangerous or disturbing behavior are those persons who have been committed for evaluation and found to be seriously mentally impaired pursuant to Iowa Code section 229.13 or 812.1 within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

a. Reasonable precautions to prevent the resident from harming self, other residents, or employees of the facility.

b. Treatment of persons with mental illness as defined in Iowa Code section 229.1(1) which is provided in accordance with the individualized health care plan.

c. Ongoing and documented staff training on individualized health care planning for persons with mental illness.  

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.36(135C) Involuntary discharge or transfer.

57.36(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident’s welfare or that of other residents; for nonpayment for the resident’s stay (as contained in the contract for the resident’s stay), except as prohibited by Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396k and by reason of action pursuant to Iowa Code chapter 229. (I, II)

a. “Medical reasons” for transfer or discharge are based on the resident’s needs and are determined and documented in the resident’s record by the attending physician. Transfer or discharge may be required to provide a different level of care. (II)

b. “Welfare” of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might be transferred or discharged because the resident’s behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with other residents’ needs and rights). Evidence that the resident’s continued presence in the facility would adversely affect the resident’s own welfare or that of other residents shall be made by the administrator or designee and shall be in writing and shall include specific information to support this determination. (II)

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

(1) If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) If the transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. (II)

d. The notice required by paragraph “c” shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement in not less than 12-point type ( elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility,
you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as “department”) within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” (II)

e. A request for a hearing made under 57.36(1)”d”(3) shall stay a transfer or discharge pending a hearing or appeal decision. (II)

f. The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department on aging long-term care ombudsman of record, not later than five full business days after receipt of the request. This notice shall also inform the licensee, resident or responsible party that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department on aging long-term care ombudsman shall have the right to appear at the hearing.

g. The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or representative requests in writing that it be closed.) The licensee or designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

h. Based upon all testimony and material submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department on aging long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

i. A copy of the notice required by paragraph “c” shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department on aging long-term care ombudsman.

j. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

k. The involuntary transfer or discharge shall be discussed with the resident, the resident’s responsible party, and the person or agency responsible for the resident’s placement, maintenance, and
care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident’s record. (II)

l. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record. (II)

(1) Counseling shall be provided by a qualified individual who meets one of the following criteria:
   1. Has a bachelor’s or master’s degree in social work from an accredited college. (II)
   2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency. (II)
   3. Has been employed in a social work capacity for a minimum of four years in a public or private agency. (II)
   4. Is a licensed psychologist or psychiatrist. (II)
   5. Is any other person of the resident’s choice. (II)

(2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be discharged or transferred. (II)

(3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

m. In the case of an emergency transfer or discharge as outlined in 57.36(1)“c”(1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by subparagraphs (1) and (2) of 57.36(1)“d.” In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department at the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” A hearing requested pursuant to this subrule shall be held in accordance with paragraphs “f,” “g,” and “h.” (II)

n. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department of inspections and appeals. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

57.36(2) Intrafacility transfer:

a. Residents shall not be relocated from room to room within a licensed health care facility arbitrarily. (I, II) Involuntary relocation may occur only in the following situations, and the situation shall be documented in the resident’s record.

(1) Incompatibility with or disturbing to other roommates, as documented in the resident’s record.
(2) For the welfare of the resident or other residents of the facility.
(3) For medical, nursing or psychosocial reasons, as documented in the resident’s record, as judged by the attending physician, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.
(4) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex.
(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident’s room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in 57.36(2) “a” (5). (II)
(2) As punishment or behavior modification (except as specified in 57.36(2) “a” (1)). (II)
(3) Discrimination on the basis of race or religion. (II)

(2) If intrafacility relocation is necessary for reasons outlined in paragraph “a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident’s record and signed by the resident or responsible party. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation and the notification shall be documented. (II)

481—57.37(135C) Residents’ rights. Each resident shall be encouraged and assisted throughout the resident’s period of stay, to exercise the resident’s rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident’s choice, free from interference, coercion, discrimination, or reprisal. (II)

57.37(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

57.37(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

a. Designation of an employee responsible for handling grievances and recommendations. (II)

b. A method of investigating and assessing the validity of a grievance or recommendation. (II)

c. Methods of resolving grievances. (II)

d. Methods of recording grievances and actions taken. (II)

57.37(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, and resident advocate committee members and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

481—57.38(135C) Financial affairs—management. Each resident, who has not been assigned a guardian or conservator by the court, may manage the resident’s own personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

57.38(1) The facility shall maintain a written account of all residents’ funds received by or deposited with the facility. (II)

57.38(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

57.38(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code subsection 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident’s responsible party shall designate a method of disbursing the resident’s funds. (II)

57.38(4) If the facility makes financial transactions on a resident’s behalf, the resident must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least
quarterly. A copy of this statement shall be maintained in the resident’s financial or business record. (II)

57.38(5) A resident’s personal funds shall not be used without the written consent of the resident or the resident’s guardian. (II)

57.38(6) A resident’s personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident’s guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.39(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental and physical abuse. Each resident shall be free from chemical and physical restraints, except in an emergency for the shortest amount of time necessary to protect the resident from injury to the resident or to others, pending the immediate transfer to an appropriate facility. The decision to use restraints on an emergency basis shall be made by the designated charge person who shall promptly report the action taken to the physician and the reasons for using restraints shall be documented in the resident’s record. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

57.39(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

57.39(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

57.39(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff. (II)

57.39(4) Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain that separation until the abuse investigation is completed. (I, II)

57.39(5) Suspected abuse reports. The department shall investigate all complaints of dependent adult abuse which are alleged to have happened in a health care facility. The department shall inform the department of human services of the results of all evaluations and dispositions of dependent adult abuse investigations.

57.39(6) Pursuant to Iowa Code chapter 235B, a mandatory reporter of dependent adult abuse is any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse. This includes a member of the staff or employee of a health care facility. (II, III)

If a staff member or employee is required to report pursuant to this subrule, the staff member or employee shall immediately notify the person in charge of the facility or the person’s designated agent, and the person in charge or the designated agent shall make the report to the department of human services. (II, III)

481—57.40(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident’s records, including information contained in an automatic data bank. The resident’s written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

57.40(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

57.40(2) Similar procedures shall safeguard the confidentiality of residents’ personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)
57.40(3) The resident, or the resident’s responsible party, shall be entitled to examine all information contained in the resident’s record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident’s record. (II)

481—57.41(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (II)

57.41(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

57.41(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents’ individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

57.41(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain 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. (II)

57.41(4) Privacy of a resident’s body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

57.41(5) Staff shall knock and be acknowledged before entering a resident’s room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—57.42(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

57.42(1) Residents may not be used to provide a source of labor for the facility against their will. Physician’s approval is required for all work programs. (I, II)

57.42(2) Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

481—57.43(135C) 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, and may send and receive personal mail unopened. (II)

57.43(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

57.43(2) 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:
   a. The resident refuses to see the visitor(s). (II)
   b. The resident’s physician documents specific reasons why such a visit would be harmful to the resident’s health. (II)
   c. The visitor’s behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

57.43(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility’s staff; or at the resident’s request. (II)

57.43(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)
57.43(5) Telephones consistent with ANSI standards (405.1134(c)) 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. (II)

57.43(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

57.43(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional, or facility administrator for refusing permission. (II)

57.43(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.44(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident’s discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident’s resident record. (II)

57.44(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

57.44(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.45(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

57.45(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

57.45(2) 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. (II)

57.45(3) Any personal clothing or possessions retained by the facility for the resident during the resident’s stay shall be identified and recorded on admission and a record placed on the resident’s chart. The facility shall be responsible for secure storage of the items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

57.45(4) A resident’s personal property shall not be used without the written consent of the resident or the resident’s guardian. (II)

57.45(5) A resident’s personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident’s guardian. The department may report findings that a resident’s property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—57.46(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident’s spouse; if both are residents in the facility, they shall be permitted to share a room, if available. (II)

57.46(1) The facility shall provide for needed privacy in visits between spouses. (II)

57.46(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why such an arrangement would have an adverse effect on the health of the resident. (II)

57.46(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)
481—57.47(135C) **Choice of physician.** Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (I)

481—57.48(135C) **Incompetent residents.**

57.48(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident’s responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

57.48(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents’ rights. (II)

481—57.49(135C) **County care facilities.** In addition to Chapter 57 licensing rules, county care facilities licensed as residential care facilities must also comply with department of human services rules, 441—Chapter 37. Violations of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

481—57.50(135C) **Another business or activity in a facility.** A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)

57.50(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Compatibility of the proposed business or activity with the facility program;

c. Noise created by the proposed business or activity;

d. Odors created by the proposed business or activity;

e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

  g. Proposed staffing for the business or activity;

  h. Sharing of services and staff between the proposed business or activity and the facility;

  i. Facility layout and design; and

  j. Parking area utilized by the business or activity.

57.50(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

57.50(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

481—57.51(135C) **Respite care services.** Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A residential care facility which
chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a residential care facility.

57.51(1) A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

57.51(2) Rule 481—57.36(135C), regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

57.51(3) Pursuant to rule 481—57.14(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—57.14(135C), except the requirements under subrule 57.14(7).

57.51(4) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.6(1), 135C.14, 135C.23(2), 135C.25, 135C.36, 227A.1(6), and 235B.1(11).

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]
[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]
[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]
[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]
[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/21/93, Notice 11/25/92—published 6/9/93, effective 7/14/93]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]

0 Two or more ARCs

1 Effective date of 470—57.15(2) “a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

2 See IAB, Inspections and Appeals Department.

3 Effective date of 481—57.12(2) “a,” last paragraph, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.
OBJECTION

At its February 13 meeting the Administrative Rules Review Committee voted the following objection: [Subrules 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b,” 63.21(3)“b,” published IAB 12/13/78]

The committee objects to the amendments to 470* IAC 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b” and 63.21(3)“b,” which strike the phrase “Twenty-five percent of the staffing may be provided by qualified volunteers. The time shall be spent in working with the organized program activity.”, on the grounds these provisions are unreasonable. It is the understanding of the committee these deletions in effect require facilities to employ a person to coordinate recreation activities. It is the feeling of the committee this would result in higher per bed costs without demonstrably improving the services rendered to the patient. Volunteers have always played a major role in health care institutions, and no evidence has been submitted indicating a decline in that role or in public interest in donating time and energy.

These amendments appear in the 12-13-78 IAB, and have been filed under the emergency provisions of chapter 17A, 1979 Code.

*Chapter 57 transferred to Inspections and Appeals[481], IAC 7/15/87.
CHAPTER 58
NURSING FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 58]

481—58.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicates those standards are mandatory. The use of the words “should” and “could” indicates those standards are recommended.

“Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

“Administrator” means a person licensed pursuant to Iowa Code chapter 147 who administers, manages, supervises, and is in general administrative charge of a nursing facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

“Alcoholic” means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

“Ambulatory” means the condition of a person who immediately and without aid of another is physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Basement” means that part of a building where the finish floor is more than 30 inches below the finish grade.

“Board” means the regular provision of meals.

“Chairfast” means capable of maintaining a sitting position but lacking the capacity of bearing own weight, even with the aid of a mechanical device or another individual.

“Communicable disease” means a disease caused by the presence of viruses or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

“Department” means the state department of inspections and appeals.

“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.

“Drug addiction” means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

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

“Nonambulatory” means the condition of a person who immediately and without aid of another is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Nourishing snack” is defined as a verbal offering of items, single or in combination, from the basic food groups. Adequacy of the “nourishing snack” will be determined both by resident interviews and by evaluation of the overall nutritional status of residents in the facility.

“Person directed care environment” means the provision of care and services provided in a facility that promotes decision making and choices by the resident, enhances the primary caregiver’s capacity to respond to each resident’s needs, and promotes a homelike environment. Examples of a person directed care environment include, but are not limited to, the Green House concept, the Eden alternative, service houses and neighborhoods.

“Personal care” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are assistance in getting in and out of bed, assistance with personal hygiene and bathing, assistance with dressing, meal assistance, and supervision over medications which can be self-administered.

“Potentially hazardous food” means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of clostridium botulinum, or in raw shell eggs, the growth of salmonella enteritidis. Potentially hazardous food includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw
seed sprouts; cut melons; and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth of bacteria.

“Program of care” means all services being provided for a resident in a health care facility.

“Qualified intellectual disabilities professional” means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year’s experience working with persons with an intellectual disability.

“Qualified nurse” means a registered nurse or a licensed practical nurse, as defined in Iowa Code chapter 152.

“Rate” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

“Responsible party” means the person who signs or cosigns the admission agreement required in 481—58.13(135C) 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, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

“Restraints” means any chemical, manual method or physical or mechanical device, material, or equipment attached to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body.

“Substantial evening meal” is defined as an offering of three or more menu items at one time, one of which includes a high protein such as meat, fish, eggs or cheese. The meal would represent no less than 20 percent of the day’s total nutritional requirements.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual nursing facility. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

58.2(1) To request a variance, the licensee must:
   a. Apply for variance in writing on a form provided by the department;
   b. Cite the rule or rules from which a variance is desired;
   c. State why compliance with the rule or rules cannot be accomplished;
   d. Explain alternate arrangements or compensating circumstances which justify the variance;
   e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

58.2(2) Upon receipt of a request for variance, the director of inspections and appeals will:
   a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
   b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
   c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
   d. Consult with the applicant if additional information is required.

58.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

481—58.3(135C) Application for license.

58.3(1) Initial application and licensing. In order to obtain an initial nursing facility license, for a nursing facility which is currently licensed, the applicant must:
a. Meet all of the rules, regulations, and standards contained in 481—Chapters 58 and 61. Applicable exceptions found in rule 481—61.2(135C) shall apply based on the construction date of the facility.

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;

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

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

f. Submit the statutory fee for a nursing facility license;

g. Meet the requirements of a nursing facility for which licensure application is made;

h. Comply with all other local statutes and ordinances in existence at the time of licensure;

i. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

58.3(2) In order to obtain an initial nursing facility license for a facility not currently licensed as a nursing facility, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 58 and 61. Exceptions noted in 481—subrule 61.1(2) shall not apply;

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;

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

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

f. Submit the statutory fee for a nursing facility license;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

58.3(3) Renewal application. In order to obtain a renewal of the nursing facility license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of nursing facility license;

b. Submit the statutory license fee for a nursing facility with the application for renewal;

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

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

58.3(4) Licenses are issued to the person or governmental unit which has 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.

481—58.4(135C) General requirements.

58.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

58.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

58.4(3) The posted license shall accurately reflect the current status of the nursing facility. (III)

58.4(4) Licenses expire one year after the date of issuance or as indicated on the license.
58.4(5) No nursing facility shall be licensed for more beds than have been approved by the health facilities construction review committee.

58.4(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

481—58.5(135C) Notifications required by the department. The department shall be notified:

58.5(1) Within 48 hours, by letter, of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

58.5(2) Of any proposed change in the nursing facility’s functional operation or addition or deletion of required services; (III)

58.5(3) Thirty days before addition, alteration, or new construction is begun in the nursing facility or on the premises; (III)

58.5(4) Thirty days in advance of closure of the nursing facility; (III)

58.5(5) Within two weeks of any change in administrator; (III)

58.5(6) When any change in the category of license is sought; (III)

58.5(7) Prior to the purchase, transfer, assignment, or lease of a nursing facility, the licensee shall:

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

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

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

58.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a nursing facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility’s licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

481—58.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—58.7(135C) Licenses for distinct parts.

58.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

58.7(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 them within that part; (III)

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;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—58.8(135C) Administrator.

58.8(1) Each nursing facility shall have one person in charge, duly licensed as a nursing home administrator or acting in a provisional capacity. (III)

58.8(2) A licensed administrator may act as an administrator for not more than two nursing facilities.
The distance between the two facilities shall be no greater than 50 miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

58.8(3) The licensee may be the licensed nursing home administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

58.8(4) A provisional administrator may be appointed on a temporary basis by the nursing facility licensee to assume the administrative duties when the facility, through no fault of its own, has lost its administrator and has been unable to replace the administrator provided that no facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 6 months in any 12-month period and further provided that:

a. The department has been notified prior to the date of the administrator’s appointment; (III)

b. The board of examiners for nursing home administrators has approved the administrator’s appointment and has confirmed such appointment in writing to the department. (III)

58.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least 18 years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator’s absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illness of residents. (III)

58.8(6) A licensed administrator in charge of two facilities shall employ an individual designated as a full-time assistant administrator for each facility. (III)

58.8(7) An administrator of only one facility shall be considered as a full-time employee. Full-time employment is defined as 40 hours per week. (III)

481—58.9(135C) Administration.

58.9(1) The licensee shall:

a. Assume the responsibility for the overall operation of the nursing facility; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the nursing facility. (III)

58.9(2) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)

c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)

d. Make available the nursing facility payroll records for departmental review as needed; (III)

e. Be required to maintain a staffing pattern of all departments. These records must be maintained for six months and are to be made available for departmental review. (III)
481—58.10(135C) General policies.

58.10(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

58.10(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

58.10(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:
   a. Employees shall have a physical examination before employment. (I, II, III)
   b. Employees shall have a physical examination at least every four years. (I, II, III)
   c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

58.10(4) Health certificates for all employees shall be available for review. (III)


58.10(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

58.10(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

58.10(8) Infection control program. Each facility shall have a written and implemented infection control and exposure control program with policies and procedures based on the guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at http://www.cdc.gov/ncidod/dhqp/index.html.

58.10(9) Infection control committee. Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. (III)
   a. The committee shall annually review and revise the infection control policies and procedures to monitor effectiveness and suggest improvement. (III)
   b. The committee shall meet at least quarterly, submit reports to the administrator, and maintain minutes in sufficient detail to document its proceedings and actions. (III)
   c. The committee shall monitor the health aspect and the environment of the facility. (III)

58.10(10) There shall be written policies for resident care programs and services as outlined in these rules. (III)

58.10(11) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[ARC 0663C; IAB 4/3/13, effective 5/8/13]

481—58.11(135C) Personnel.

58.11(1) General qualifications.
   a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a nursing facility. (II)
   b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a nursing facility. (II)
   c. 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, (I, II, III)
      (2) Which presents a significant risk of infecting others, (I, II, III)
      (3) Which presents a substantial possibility of harming others, and (I, II, III)
      (4) For which no reasonable accommodation can eliminate the risk. (I, II, III)
   d. Reserved.
e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual’s ability to perform the duties of the job. (III)

f. Persons employed in all departments, except the nursing department of a nursing facility shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least 240 hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities and dietary without experience or training if the facility institutes a formal in-service training program to fit the job description in question and documents such as having taken place within 30 days after the initial hiring of such untrained employees. (III)

g. Rescinded, effective 7/14/82.

h. The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

i. Those persons employed as nurse’s aides, orderlies, or attendants in a nursing facility who have not completed the state-approved 75-hour nurse’s aide program shall be required to participate in a structured on-the-job training program of 20 hours’ duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall the aide’s hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the state-approved 75-hour course may model skills to be learned.

Further, such personnel shall be enrolled in a state-approved 75-hour nurse’s aide program to be completed no later than six months from the date of employment. If the state-approved 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 75-hour course and is not a substitute in whole or in part. The 75-hour program, approved by the department, may be provided by the facility or academic institution.

Newly hired aides who have completed the state-approved 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file.

All personnel administering medications must have completed the state-approved training program in medication administration. (II)

j. There shall be an organized ongoing in-service educational and training program planned in advance for all personnel in all departments. (II, III)

k. Nurse aides, orderlies or attendants in a nursing facility who have received training other than the Iowa state-approved program, must pass a challenge examination approved by the department of inspections and appeals. Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

58.11(2) Nursing supervision and staffing.

a. Rescinded IAB 8/7/91, effective 7/19/91.

b. Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

c. A qualified nurse shall be employed to relieve the supervising nurses, including charge nurses, on holidays, vacation, sick leave, days off, absences or emergencies. Pertinent information for contacting such relief person shall be posted at the nurse’s station. (III)

d. When the health service supervisor serves as the administrator of a facility 50 beds and over, a qualified nurse must be employed to relieve the health service supervisor of nursing responsibilities. (III)

e. The department may establish on an individual facility basis the numbers and qualifications of the staff required in the facility using as its criteria the services being offered and the needs of the residents. (III)
f. Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

g. The minimum hours of resident care personnel required for residents needing intermediate nursing care shall be 2.0 hours per resident day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. If the maximum medical assistance rate is reduced below the 74th percentile, the requirement will return to 1.7 hours per resident per day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. (II, III)

h. The health service supervisor’s hours worked per week shall be included in computing the 20 percent requirement.

i. A nursing facility of 75 beds or more shall have a qualified nurse on duty 24 hours per day, seven days a week. (II, III)

j. In facilities under 75 beds, if the health service supervisor is a licensed practical nurse, the facility shall employ a registered nurse, for at least four hours each week for consultation, who must be on duty at the same time as the health service supervisor. (II, III)

(1) This shall be an on-site consultation and documentation shall be made of the visit. (III)

(2) The registered nurse-consultant shall have responsibilities clearly outlined in a written agreement with the facility. (III)

(3) Consultation shall include but not be limited to the following: counseling the health service supervisor in the management of the health services; (III) reviewing and evaluating the health services in determining that the needs of the residents are met; (II, III) conducting a review of medications at least monthly if the facility does not employ a registered nurse part-time. (II, III)

k. Facilities with 75 or more beds must employ a health service supervisor who is a registered nurse. (II)

l. There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II)

m. Physician’s orders shall be implemented by qualified personnel. (II, III)

58.11(3) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—58.12(135C) Admission, transfer, and discharge.

58.12(1) General admission policies.

a. No resident shall be admitted or retained in a nursing facility who is in need of greater services than the facility can provide. (II, III)

b. No nursing facility shall admit more residents than the number of beds for which it is licensed, except guest rooms for visitors. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a nursing facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident’s legal representative. (III)

f. The admission of a resident shall not grant the nursing facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the facility as required by these rules. (III)

g. A nursing facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would
convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the nursing facility belonging to or due a resident, expendable for the resident’s account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department’s review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident’s property, unless such resident is related to the person acting as guardian within the third degree of consanguinity.

l. Within 30 days of a resident’s admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident’s personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident’s name along with the names of the resident’s spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services.

If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care or to the admission of an individual to the Iowa Veterans Home. (II, III)

58.12(2) Discharge or transfer.

a. Prior notification shall be made to the resident, as well as the resident’s next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the nursing facility 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. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such a discharge or transfer. (II, III)

d. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 58.15(2) “k” of these rules will accompany the resident. (II, III)

f. 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 sent. (II, III)

481—58.13(135C) Contracts. Each contract shall:

58.13(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

58.13(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. Furthermore, the contract shall: (III)

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in 58.13(3); (III)

b. State the method of payment of additional charges; (III)
c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

58.13(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on the nursing assessment at the time of admission, which is determined in consultation with the administrator; (III)

58.13(4) Include the total fee to be charged initially to the specific resident; (III)

58.13(5) State the conditions whereby the facility may make adjustments to the facility’s overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident’s condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

58.13(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

58.13(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident’s responsible party.

a. The facility shall ask the resident or responsible party if the resident wants the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

58.13(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

58.13(9) State the conditions of voluntary discharge or transfer; (III)

58.13(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

58.13(11) Each party shall receive a copy of the signed contract. (III)

481—58.14(135C) Medical services.

58.14(1) Each resident in a nursing facility shall designate a licensed physician who may be called when needed. Professional management of a resident’s care shall be the responsibility of the hospice program when:

a. The resident is terminally ill, and

b. The resident has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, and

c. The facility and the hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of hospice care.

58.14(2) Each resident admitted to a nursing facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical
and discharge summary may be made part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident’s record. (III)

58.14(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

58.14(4) Rescinded, effective 7/14/82.

58.14(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident’s condition. (I, II, III)

58.14(6) A schedule listing the names and telephone numbers of the physicians shall be posted in each nursing station. (III)

58.14(7) Residents shall be admitted to a nursing facility only on a written order signed by a physician certifying that the individual being admitted requires no greater degree of nursing care than the facility is licensed to provide. (III)

58.14(8) Each resident shall be visited by or shall visit the resident’s physician at least twice a year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Notwithstanding the provisions of 42 CFR 483.40, any required physician task or visit in a nursing facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

In dually certified skilled nursing/nursing facilities, the advanced registered nurse practitioner, clinical nurse specialist, and physician assistant must follow the skilled nursing facility requirements for services for skilled nursing facility stays. For nursing facility stays in skilled nursing/nursing facilities, any required physician task or visit may be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant working in collaboration with the physician.

Nurse practitioners, clinical nurse specialists, and physician assistants may perform other tasks that are not reserved to the physician such as visits outside the normal schedule needed to address new symptoms or other changes in medical status.

Table 1: Authority for non-physician practitioners to perform visits, sign orders, and sign certifications/recertifications when permitted by state law*

<table>
<thead>
<tr>
<th>Skilled Nursing Facilities</th>
<th>Initial Comprehensive Visit/Orders</th>
<th>Other Required Visits</th>
<th>Other Medically Necessary Visits and Orders</th>
<th>Certification/Recertification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nurse practitioner and clinical nurse specialist employed by the facility</td>
<td>May not perform/May not sign</td>
<td>May perform</td>
<td>May perform and sign</td>
<td>May not sign</td>
</tr>
<tr>
<td>Nurse practitioner and clinical nurse specialist not a facility employee</td>
<td>May not perform/May not sign</td>
<td>May perform</td>
<td>May perform and sign</td>
<td>May sign subject to state requirements</td>
</tr>
<tr>
<td>Physician assistant regardless of employer</td>
<td>May not perform/May not sign</td>
<td>May perform</td>
<td>May perform and sign</td>
<td>May not sign</td>
</tr>
</tbody>
</table>

Nursing Facilities

| Nurse practitioner, clinical nurse specialist, and physician assistant employed by the facility | May not perform/May not sign | May not perform | May perform and sign | May sign subject to state requirements |
| Nurse practitioner, clinical nurse specialist, and physician assistant not a facility employee | May perform/May sign | May perform | May perform and sign | May sign subject to state requirements |

*As permitted by state law governing the scope and practice of nurse practitioners, clinical nurse specialists, and physician assistants.
1 Other required visits include the skilled nursing resident monthly visits that may be alternated between physician and advanced registered nurse practitioners, clinical nurse specialists, or physician assistants after the initial comprehensive visit is completed.
2 Medically necessary visits may be performed prior to the initial comprehensive visit.

481—58.15(135C) Records.

58.15(1) Resident admission record. The licensee shall keep a permanent record on all residents admitted to a nursing facility with all entries current, dated, and signed. This shall be a part of the resident clinical record. (III) The admission record form shall include:
   a. Name and previous address of resident; (III)
   b. Birth date, sex, and marital status of resident; (III)
   c. Church affiliation; (III)
   d. Physician’s name, telephone number, and address; (III)
   e. Dentist’s name, telephone number, and address; (III)
   f. Name, address, and telephone number of next of kin or legal representative; (III)
   g. Name, address, and telephone number of person to be notified in case of emergency; (III)
   h. Mortician’s name, telephone number, and address; (III)
   i. Pharmacist’s name, telephone number, and address. (III)

58.15(2) Resident clinical record. There shall be a separate clinical record for each resident admitted to a nursing facility with all entries current, dated, and signed. (III) The resident clinical record shall include:
   a. Admission record; (III)
   b. Admission diagnosis; (III)
   c. Physical examination: The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident’s name, sex, age, medical history, tuberculosis status, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential and results of any diagnostic procedures. The report of the physical examination shall be signed by the physician. (III)
   d. Physician’s certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)
   e. Physician’s orders for medication, treatment, and diet in writing and signed by the physician quarterly; (III)
   f. Progress notes.
      (1) Physician shall enter a progress note at the time of each visit; (III)
      (2) Other professionals, i.e., dentists, social workers, physical therapists, pharmacists, and others shall enter a progress note at the time of each visit; (III)
   g. All laboratory, X-ray, and other diagnostic reports; (III)
   h. Nurse’s record including:
      (1) Admitting notes including time and mode of transportation; room assignment; disposition of valuables; symptoms and complaints; general condition; vital signs; and weight; (II, III)
      (2) Routine notes including physician’s visits; telephone calls to and from the physician; unusual incidents and accidents; change of condition; social interaction; and P.R.N. medications administered including time and reason administered, and resident’s reaction; (II, III)
      (3) Discharge or transfer notes including time and mode of transportation; resident’s general condition; instructions given to resident or legal representative; list of medications and disposition; and completion of transfer form for continuity of care; (II, III)
      (4) Death notes including notification of physician and family to include time, disposition of body, resident’s personal possessions and medications; and complete and accurate notes of resident’s vital signs and symptoms preceding death; (III)
   i. Medication record.
      (1) An accurate record of all medications administered shall be maintained for each resident. (II, III)
(2) Schedule II drug records shall be kept in accordance with state and federal laws; (II, III)

j. Death record. In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)

k. Transfer form.

(1) The transfer form shall include identification data from the admission record, name of transferring institution, name of receiving institution, and date of transfer; (III)

(2) The nurse’s report shall include resident attitudes, behavior, interests, functional abilities (activities of daily living), unusual treatments, nursing care, problems, likes and dislikes, nutrition, current medications (when given), and condition on transfer; (III)

(3) The physician’s report shall include reason for transfer, medications, treatment, diet, activities, significant laboratory and X-ray findings, and diagnosis and prognosis; (III)

l. Consultation reports shall indicate services rendered by allied health professionals in the facility or in health-centered agencies such as dentists, physical therapists, podiatrists, oculists, and others. (III)

58.15(3) Resident personal record. Personal records may be kept as a separate file by the facility.

a. Personal records may include factual information regarding personal statistics, family and responsible relative resources, financial status, and other confidential information.

b. Personal records shall be accessible to professional staff involved in planning for services to meet the needs of the resident. (III)

c. When the resident’s records are closed, the information shall become a part of the final record. (III)

d. Personal records shall include a duplicate copy of the contract(s). (III)

58.15(4) Incident record.

a. Each nursing facility shall maintain an incident record report and shall have available incident report forms. (III)

b. Report of incidents shall be in detail on a printed incident report form. (III)

c. The person in charge at the time of the incident shall prepare and sign the report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

58.15(5) Retention of records.

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. 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. (III)

58.15(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

58.15(7) Personnel record.

a. An employment record shall be kept for each employee, consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, criminal history and dependent adult abuse background checks, and date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)
481—58.16(135C) Resident care and personal services.

58.16(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

58.16(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

58.16(3) Residents shall have clean clothing as needed to present a neat appearance, to be free of odors, and to be comfortable. Clothing shall be based on resident choice and shall be appropriate to residents’ activities and to the weather. (III)

58.16(4) Rescinded, effective 7/14/82.

58.16(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

58.16(6) Residents shall not be required to pass through another’s bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

58.16(7) Rescinded, effective 7/14/82.

58.16(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

58.16(9) Except for those who request differently, residents who are not bedfast shall be fully dressed each day to maintain self-esteem and promote the residents’ normal lifestyles. (III)

58.16(10) Residents shall receive a bath of their choice, based on the facility’s accommodations, as needed to maintain proper hygiene. (II, III)

481—58.17 Rescinded, effective 7/14/82.

481—58.18(135C) Nursing care.

58.18(1) Individual health care plans shall be based on resident treatment decisions, the nature of the illness or disability, treatment, and care prescribed. Goals shall be developed by each discipline providing service, treatment, and care. These plans shall be in writing, revised as necessary, and kept current. They shall be made available to all those rendering the services and for review by the department. (III)

58.18(2) Residents shall be protected against hazards to themselves and others or the environment. (II, III)

58.18(3) The facility shall provide resident and family education as an integral part of restorative and supportive care. (III)

58.18(4) The facility shall provide prompt response from qualified staff for the resident’s use of the nurse call system. (II, III) (Prompt response being considered as no longer than 15 minutes.)

481—58.19(135C) Required nursing services for residents. The program plan for nursing facilities shall have the following required nursing services under the 24-hour direction of qualified nurses with ancillary coverage as set forth in these rules:

58.19(1) Activities of daily living.
   a. Bathing; (II, III)
   b. Daily oral hygiene (denture care); (II, III)
   c. Routine shampoo; (II, III)
   d. Nail care; (III)
   e. Shaving; (III)
   f. Daily care and application of prostheses (glasses, hearing aids, glass eyes, limb prosthetics, braces, or other assistive devices); (II, III)
   g. Ambulation with equipment if applicable, or transferring, or positioning; (I, II, III)
   h. Daily routine range of motion; (II, III)
   i. Mobility (assistance with wheelchair, mechanical lift, or other means of locomotion); (I, II, III)
   j. Elimination.
      (1) Assistance to and from the bathroom and perineal care; (II, III)
      (2) Bedpan assistance; (II, III)
(3) Care for incontinent residents; (II, III)

(4) Bowel and bladder training programs including in-dwelling catheter care (i.e., insertion and irrigation), enema and suppository administration, and monitoring and recording of intake and output, including solid waste; (I, II, III)

   k. Colostomy care (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II, III)

   l. Ileostomy care (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II, III)

   m. All linens necessary; (III)

   n. Nutrition and meal service.

      (1) Regular, therapeutic, modified diets, and snacks; (I, II, III)

      (2) Mealtime preparation of resident; (II, III)

      (3) Assistance to and from meals; (II, III)

      (4) In-room meal service or tray service; (II, III)

      (5) Assistance with food preparation and meal assistance including total assistance if needed; (II, III)

      (6) Assistance with adaptive devices; (II, III)

      (7) Enteral nutrition (to be performed by a registered nurse or licensed practical nurse only); (I, II, III)

   o. Promote initiation of self-care for elements of resident care; (II, III)

   p. Oral suctioning (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse). (I, II)

58.19(2) Medication and treatment.

   a. Administration of all medications as ordered by the physician including oral, instillations, topical, injectable (to be injected by a registered nurse or licensed practical nurse only); (I, II)

   b. Wound care; (I, II)

   c. Blood glucose monitoring; (I, II)

   d. Vital signs, blood pressure, and weights; (I, II)

   e. Ambulation and transfer; (II, III)

   f. Provision of restraints; (I, II)

   g. Administration of oxygen (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II)

   h. Provision of all treatments; (I, II, III)

   i. Provision of emergency medical care, including arranging for transportation, in accordance with written policies and procedures of the facility; (I, II, III)

   j. Provision of accurate assessment and timely intervention for all residents who have an onset of adverse symptoms which represent a change in mental, emotional, or physical condition. (I, II, III)

481—58.20(135C) Duties of health service supervisor. Every nursing facility shall have a health service supervisor who shall:

58.20(1) Direct the implementation of the physician’s orders; (I, II)

58.20(2) Plan for and direct the nursing care, services, treatments, procedures, and other services in order that each resident’s needs and choices, where practicable, are met; (II, III)

58.20(3) Review the health care needs and choices, where practicable, of each resident admitted to the facility and assist the attending physician in planning for the resident’s care; (II, III)

58.20(4) Develop and implement a written health care plan in cooperation with, to the extent practicable, the resident, the resident’s family or the resident’s legal representative, and others in accordance with instructions of the attending physician as follows:

   a. The written health care plan, based on the assessment and reassessment of the resident’s health needs and choices, where practicable, is personalized for the individual resident and indicates care to be given, goals to be accomplished, and methods, approaches, and modifications necessary to achieve best results; (III)
b. The health service supervisor is responsible for preparing, reviewing, supervising the implementation, and revising the written health care plan; (III)

c. The health care plan is readily available for use by all personnel caring for the resident; (III)

58.20(5) Initiate preventative and restorative nursing procedures for each resident so as to achieve and maintain the highest possible degree of function, self-care, and independence based on resident choice, where practicable; (II, III)

58.20(6) Supervise health services personnel to ensure they perform the following restorative measures in their daily care of residents:

a. Maintaining good bodily alignment and proper positioning; (II, III)

b. Making every effort to keep the resident active except when contraindicated by physician’s orders, and encouraging residents to achieve independence in activities of daily living by teaching self-care, transfer, and ambulation activities; (III)

c. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests as necessary; (III)

d. Assisting residents to carry out prescribed therapy exercises between visits of the therapist; (III)

e. Assisting residents with routine range of motion exercises; (III)

58.20(7) Plan and conduct nursing staff orientation and in-service programs and provide for training of nurse’s aides; (III)

58.20(8) Plan with the resident and the resident’s physician and family and health-related agencies for the care of the resident upon discharge; (III)

58.20(9) Designate a responsible person to be in charge during absences; (III)

58.20(10) Be responsible for all assignments and work schedules for all health services personnel to ensure that the health needs of the residents are met; (III)

58.20(11) Ensure that all nurse’s notes are descriptive of the care rendered including the resident’s response; (III)

58.20(12) Visit each resident routinely to be knowledgeable of the resident’s current condition; (III)

58.20(13) Evaluate in writing the performance of each individual on the health care staff on at least an annual basis. This evaluation shall be available for review in the facility to the department; (III)

58.20(14) Keep the administrator informed of the resident’s status; (III)

58.20(15) Teach and coordinate rehabilitative health care including activities of daily living, promotion and maintenance of optimal physical and mental functioning; (III)

58.20(16) Supervise serving of meals to ensure that individuals unable to assist themselves are promptly fed and that special eating adaptive devices are available as needed; (II, III)

58.20(17) Make available a nursing procedure manual which shall include all procedures practiced in the facility; (III)

58.20(18) Participate with the administrator in the formulation of written policies and procedures for resident services; (III)

58.20(19) The person in charge shall immediately notify the family of any accident, injury, or adverse change in the resident’s condition requiring physician’s notification. (III)

481—58.21(135C) Drugs, storage, and handling.

58.21(1) Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

a. A cabinet with a lock, convenient to nursing service, shall be provided and used for storage of all drugs, solutions, and prescriptions; (III)

b. The drug storage cabinet shall be kept locked when not in use; (III)

c. The medication cabinet key shall be in the possession of the person directly responsible for issuing medications; (II, III)

d. Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)

58.21(2) Drugs for external use shall be stored separately from drugs for internal use. (III)
58.21(3) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items. A method for locking these medications shall be provided. (III)

58.21(4) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

58.21(5) All flammable materials shall be specially stored and handled in accordance with applicable local and state fire regulations. (II)

58.21(6) A properly trained person shall be charged with the responsibility of administering nonparenteral medications.
   a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.
   b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.
   c. Prior to taking a department-approved medication aide course, the individual shall:
      (1) Successfully complete an approved nurse aide course, nurse aide training and testing program or nurse aide competency examination.
      (2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.
      (3) Have a letter of recommendation for admission to the medication aide course from the employing facility.
   d. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:
      (1) Complete a clinical or nursing theory course within six months before taking the challenge examination;
      (2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;
      (3) Provide to the community college a written statement from the nursing program’s pharmacology or clinical instructor indicating the individual is competent in medication administration.
      (4) Successfully complete a department-approved nurse aide competency evaluation.
   e. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph “c” of this subrule do not apply to this individual.

58.21(7) Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day that they are administered, (II) unless the unit dose system is used.

58.21(8) An accurate written record of medications administered shall be made by the individual administering the medication. (III)

58.21(9) Records shall be kept of all Schedule II drug medications received and dispensed in accordance with the controlled drug and substance Act. (III)

58.21(10) Any unusual resident reaction shall be reported to the physician at once. (II)

58.21(11) A policy shall be established by the facility in conjunction with a licensed pharmacist to govern the distribution of prescribed medications to residents who are on leave from the facility. (III)
   a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 58.21(14)”a,” non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident’s name, the facility, the medication, its strength, dose, and time of administration.
b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

c. Medication distributed as above may be issued only by a nurse responsible for administering medication. (I, II, III)

58.21(12) Emergency medications. A nursing facility shall provide emergency medications pursuant to the following requirements: (III)

a. Prescription drugs as well as nonprescription items must be prescribed or approved by the physician, in consultation with the pharmacist, who provides emergency service to the facility; (III)

b. The emergency medications shall be stored in an accessible place; (III)

c. A list of the emergency medications and quantities of each item shall be maintained by the facility; (III)

d. The container holding the emergency medications shall be closed with a seal which may be broken when drugs are required in an emergency or for inspection; (III)

e. Any item removed from the emergency medications shall be replaced within 48 hours; (III)

f. A permanent record shall be kept of each time the emergency medications are used; (III)

g. The emergency medications shall be inspected by a pharmacist at least once every three months to determine the stability of items. (III)

58.21(13) Drug handling.

a. Bulk supplies of prescription drugs shall not be kept in a nursing facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

b. Inspection of drug storage condition shall be made by the health service supervisor and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the nurse and pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician’s order, and drugs improperly stored. (III)

c. If the facility permits licensed nurses to dilute or reconstitute drugs at the nursing station, distinctive supplementary labels shall be available for the purpose. The notation on the label shall be so made as to be indelible. (III)

d. Dilution and reconstitution of drugs and their labeling shall be done by the pharmacist whenever possible. If not possible, the following shall be carried out only by the licensed nurse:

(1) Specific directions for dilution or reconstitution and expiration date should accompany the drug; (III)

(2) A distinctive supplementary label shall be affixed to the drug container when diluted or reconstituted by the nurse for other than immediate use. (III) The label shall bear the following: resident’s name, dosage and strength per unit/volume, nurse’s name, expiration date, and date and time of dilution. (III)

58.21(14) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident’s full name, physician’s name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident’s full name, physician’s name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels, or medication samples shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. There shall be no medications or any solution in unlabeled containers. (II, III)

d. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

e. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label of a drug container. (II, III)
f. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

g. Unused prescription drugs prescribed for residents who are deceased shall be returned to the supplying pharmacist. (III)

h. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

i. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

j. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

k. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident’s current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

l. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The physician, in consultation with the pharmacist serving the home, shall institute policies and provide procedures for review and endorsement of stop orders on drugs. This policy shall be conveniently located for personnel administering medications. (II, III)

m. No resident shall be allowed to keep possession of any medications unless the attending physician has certified in writing on the resident’s medical record that the resident is mentally and physically capable of doing so. (II)

n. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)

o. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

p. A qualified nurse shall:

(1) Establish a medication schedule system which identifies the time and dosage of each medication prescribed for each resident, is based on the resident’s desired routine, and is approved by the resident’s physician. (II, III)

(2) Establish a medication record containing the information specified above needed to monitor each resident’s drug regimen. (II, III)

q. Telephone orders shall be taken by a qualified nurse. Orders shall be written into the resident’s record and signed by the person receiving the order. Telephone orders shall be submitted to the physician for signature within 48 hours. (III)

r. A pharmacy operating in connection with a nursing facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy examiners. (III)

s. In a nursing facility with a pharmacy or drug supply, service shall be under the personal supervision of a pharmacist licensed to practice in the state of Iowa. (III)

58.21(15) Drug administration.

a. Injectable medications shall not be administered by anyone other than a qualified nurse or physician. In the case of a resident who has been certified by the resident’s physician as capable of taking the resident’s own insulin, the resident may inject the resident’s own insulin. (II)

b. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

c. The health service supervisor shall be responsible for the supervision and direction of all personnel administering medications. (II)
481—58.22(135C) Rehabilitative services. Rehabilitative services shall be provided to maintain function or improve the resident’s ability to carry out the activities of daily living.

58.22(1) Physical therapy services.
   a. Each facility shall have a written agreement with a licensed physical therapist to provide physical therapy services. (III)
   b. Physical therapy shall be rendered only by a physical therapist licensed to practice in the state of Iowa. All personnel assisting with the physical therapy of residents must be under the direction of a licensed physical therapist. (II, III)
   c. The licensed physical therapist shall:
      (1) Evaluate the resident and prepare a physical therapy treatment plan conforming to the medical orders and goals; (III)
      (2) Consult with other personnel in the facility who are providing resident care and plan with them for the integration of a physical therapy treatment program into the overall health care plan; (III)
      (3) Instruct the nursing personnel responsible for administering selected restorative procedures between treatments; (III)
      (4) Present programs in the facility’s in-service education programs. (III)
         d. Treatment records in the resident’s medical chart shall include:
            (1) The physician’s prescription for treatment; (III)
            (2) An initial evaluation note by the physical therapist; (III)
            (3) The physical therapy care plan defining clearly the long-term and short-term goals and outlining the current treatment program; (III)
      (4) Notes of the treatments given and changes in the resident’s condition; (III)
      (5) A complete discharge summary to include recommendations for nursing staff and family. (III)
   d. There shall be adequate facilities, space, appropriate equipment, and storage areas as are essential to the treatment or examinations of residents. (III)

58.22(2) Other rehabilitative services.
   a. The facility shall arrange for specialized and supportive rehabilitative services when such services are ordered by a physician. (III) These may include audiology and occupational therapy.
   b. Audiology services shall be under the direction of a person licensed in the state of Iowa by the board of speech pathology and audiology. (II, III)
   c. Occupational therapy services shall be under the direction of a qualified occupational therapist who is currently registered by the American Occupational Therapy Association. (II, III)
   d. The appropriate professional shall:
      (1) Develop the treatment plan and administer or direct treatment in accordance with the physician’s prescription and rehabilitation goals; (III)
      (2) Consult with other personnel within the facility who are providing resident care and plan with them for the integration of a treatment program into the overall health care plan. (III)

481—58.23(135C) Dental, diagnostic, and other services.

58.23(1) Dental services.
   a. The nursing facility personnel shall assist residents to obtain regular and emergency dental services. (III)
   b. Transportation arrangements shall be made when necessary for the resident to be transported to the dentist’s office. (III)
   c. Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident’s physician shall be advised of the resident’s dental problems. (III)
   d. All dental reports or progress notes shall be included in the clinical record. (III)
   e. Nursing personnel shall assist the resident in carrying out dentist’s recommendations. (III)
   f. Dentists shall be asked to participate in the in-service program of the facility. (III)

58.23(2) Diagnostic services.
   a. The nursing facility shall make provisions for promptly securing required clinical laboratory, X-ray, and other diagnostic services. (III)
(III) All diagnostic services shall be provided only on the written, signed order of a physician.
(III) Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)
(III) Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)
(III) Copies of all diagnostic reports shall be requested by the facility and included in the resident’s clinical record. (III)
(III) The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)
(III) Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)

58.23(3) Other services.
(III) The nursing facility shall assist residents to obtain such supportive services as requested by the physician. (III)
(III) Transportation arrangements shall be made when necessary. (III)
(III) Services could include the need for prosthetic devices, glasses, hearing aids, and other necessary items. (III)

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 the 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)
(III) There shall be written policies and procedures for dietetic services that include staffing, nutrition, menu planning, therapeutic diets, preparation, service, ordering, receiving, storage, sanitation, and staff hygiene. The policies and procedures shall be made available for use by dietetic services. (III)
(III) 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.
(III) The facility shall employ a qualified dietary supervisor who:
(III) (1) Is a qualified dietitian as defined in 58.24(2)“c”; or
(III) (2) Is a graduate of a dietetic technician training program approved by the American Dietetic Association; or
(III) (3) Is a certified dietary manager certified by the certifying board for dietary managers of the Dietary Managers Association (DMA) and maintains that credential through 45 hours of DMA-approved continuing education; or
(III) (4) Has completed a DMA-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or
(III) (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 12 months of the date of enrollment; or
(III) (6) Has completed or is in the final 90-hour training course approved by the department. (II, III)
(III) 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:
(III) (1) Participating in regular conferences with consultant dietitian, administrator and other department heads; (III)
(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)
(III) (3) Establishing and maintaining standards for food preparation and service; (II, III)
(III) (4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)
(III) (5) Supervising activities of dietary personnel; (II, III)
(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. 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 elsewhere; (II, III)

(3) Serving of therapeutic diets as prescribed by the physician and following the planned menu. (II, III)

d. 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)

e. 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.

f. 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)

g. 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 published by Blackwell Publishing, Ames, Iowa, 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 comparable to normal mealtimes in the community. (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. The same menu shall not be repeated on the same day of the following week. (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 service department for easy use by persons purchasing, preparing and serving food. (III)
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)

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

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

58.24(4) Therapeutic diets.

a. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual shall be readily available to attending physicians, nurses and dietetic service personnel. This 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. (III)

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

58.24(5) Food preparation and service.

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. (II, III)

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

e. Table service shall be attractive. (III)

f. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (III)

g. All food that is transported through public corridors shall be covered. (III)

h. All potentially hazardous food or beverages capable of supporting rapid and progressive growth of microorganisms that can cause food infections or food intoxication shall be maintained at temperatures of 41°F or below or at 140°F or above at all times, except during necessary periods of preparation. Frozen food shall be maintained frozen. (I, II, III)

i. Potentially hazardous food that is cooked, cooled and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds. (I, II, III)

j. Food must be reheated to 165°F within no more than two hours after the heating process begins. (I, II, III)

k. Cooked potentially hazardous food shall be cooled:

(1) Within two hours, from 140°F to 70°F; and

(2) Within four hours, from 70°F to 41°F or less. (I, II, III)

58.24(6) Dietary ordering, receiving, and storage.

a. All food and beverages shall be of wholesome quality and procured from sources approved or considered satisfactory by federal, state and local authorities. Food or beverages from unlabeled, rusty, leaking, broken or damaged containers shall not be served. (I, II, III)

b. A minimum of at least a one-week supply of staple foods and a three-day supply of perishable foods shall be maintained on the premises to meet the planned menu needs until the next food delivery. Supplies shall be appropriate to meet the requirements of the menu. (III)

c. All milk shall be pasteurized. (III)

d. Milk may be served in individual, single-use containers. Milk may be served from refrigerated bulk milk dispensers or from the original container. Milk served from a refrigerated bulk milk dispenser shall be dispensed directly into the glass or other container from which the resident drinks. (II, III)

e. Records which show amount and kind of food purchased shall be retained for three months and shall be made available to the department upon request. (III)

f. Dry or staple items shall be stored at least six inches (15 cm) above the floor in a ventilated room, not subject to sewage or wastewater backflow, and protected from condensation, leakage, rodents or vermin in accordance with the Food Code, 1999 edition. (III)
g. Pesticides, other toxic substances and drugs shall not be stored in the food preparation or storage areas used for food or food preparation equipment and utensils. Soaps, detergents, cleaning compounds or similar substances shall not be stored in food storage rooms or areas. (II)

h. Food storage areas shall be clean at all times. (III)

i. There shall be a reliable thermometer in each refrigerator, freezer and in storerooms used for food. (III)

j. Foods held in refrigerated or other storage areas shall be appropriately covered. Food that was prepared and not served shall be stored appropriately, clearly identifiable and dated. (III)

58.24(7) Sanitation in food preparation area.

a. Unless otherwise indicated in this chapter or 481—Chapter 61, the sanitary provisions as indicated in Chapters 3, 4 and 7 of the 1999 Food Code, U.S. Public Health Service, Food and Drug Administration, Washington, DC 20204, shall apply.

b. Residents may be allowed in the food preparation area. (III)

c. The food preparation area may be used as a dining area for residents, staff or food service personnel. (III)

d. All food service areas shall be kept clean, free from litter and rubbish, and protected from rodents, animals, roaches, flies and other insects. (II, III)

e. All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair, and shall be free from breaks, corrosion, cracks and chipped areas. (II, III)

f. There shall be effective written procedures established for cleaning all work and serving areas. (III)

g. A schedule of cleaning duties to be performed daily shall be posted. (III)

h. An exhaust system and hood shall be clean, operational and maintained in good repair. (III)

i. Spillage and breakage shall be cleaned up immediately and disposed of in a sanitary manner. (III)

j. Wastes from the food service that are not disposed of by mechanical means shall be kept in leakproof, nonabsorbent, tightly closed containers when not in immediate use and shall be disposed of frequently. (III)

k. 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)

l. The walls, ceilings and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. Walls and floors in wet areas should be moisture-resistant. (III)

m. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

n. There shall be no animals or birds in the food preparation area. (III)

o. All utensils used for eating, drinking, and preparing and serving food and drink shall be cleaned and disinfected or discarded after each use. (III)

p. If utensils are washed and rinsed in an automatic dishmachine, one of the following methods shall be used:

(1) When a conventional dishmachine is utilized, the utensils shall be washed in a minimum of 140°F using soap or detergent and sanitized in a hot water rinse of not less than 170°F. (II, III)

(2) When a chemical dishmachine is utilized, the utensils shall be washed in a minimum of 120°F using soap or detergent and sanitized using a chemical sanitizer that is automatically dispensed by the machine and is in a concentration equivalent to 50 parts per million (ppm) available chloride. (II, III)

q. If utensils are washed and rinsed in a three-compartment sink, the utensils shall be thoroughly washed in hot water at a minimum temperature of 110°F using soap or detergent, rinsed in hot water to remove soap or detergent, and sanitized by one of the following methods:

(1) Immersion for at least 30 seconds in clean water at 180°F. (II, III)

(2) Immersion in water containing bactericidal chemical at a minimum concentration as recommended by the manufacturer. (II, III)
r. After sanitation, the utensils shall be allowed to drain and dry in racks or baskets on nonabsorbent surfaces. Drying cloths shall not be used. (III)
s. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without first washing their hands. (III)
t. A mop and mop pail shall be provided for exclusive use in kitchen and food storage areas. (III)  
58.24(8) Hygiene of food service personnel.
a. Personnel, if involved in dietetic services, shall be trained in basic food sanitation techniques, shall be clean and wear clean clothing, including a cap or a hairnet sufficient to contain, cover and restrain hair. Beards, mustaches and sideburns that are not closely cropped and neatly trimmed shall be covered. (III)
b. Personnel shall be excluded from duty when affected by skin infections or communicable diseases in accordance with the facility’s infection control policies. (II, III)
c. Employee street clothing stored in the food service area shall be in a closed area. (III)
d. Food preparation sinks shall not be used for hand washing. Separate hand-washing facilities with soap, hot and cold running water, and single-use towels shall be used properly. (II, III)
e. The use of tobacco shall be prohibited in the food preparation area. (III)  
58.24(9) 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 above, 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 experiences. 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.
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 above 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) Upon successful completion of the training program, the facility or other institution providing the training shall, within ten calendar days, 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 for help on the resident call system. (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)

481—58.25(135C) Social services program.

58.25(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)

58.25(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

58.25(3) The social services plan, including specific goals and regular evaluation of progress, shall be incorporated into the overall plan of care. (III)
481—58.26(135C) Resident activities program.

58.26(1) Organized activities. Each nursing facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident’s physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

e. The activity program shall include suitable activities for those residents unable to leave their rooms. (III)

f. The program shall be incorporated into the overall health plan and shall be designed to meet the goals as written in the plan.

58.26(2) Coordination of activities program.

a. Each nursing facility shall employ a person to direct the activities program. (III)

b. Staffing for the activity program shall be provided on the minimum basis of 35 minutes per licensed bed per week. (II, III)

c. The activity coordinator shall have completed the activity coordinators’ orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

58.26(3) Duties of activity coordinator. The activity coordinator shall:

a. Have access to all residents’ records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:
   (1) Attendance; (III)
   (2) Individual resident progress notes recorded at regular intervals (at least quarterly). A copy of these notes shall be placed in the resident’s clinical record; (III)
   (3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

58.26(4) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

1 Emergency, pursuant to Iowa Code section 17A.5(2)’b’(2).
2 Objection filed 2/14/79; see Objection following 481—Ch 57.
Resident advocate committee. Each facility shall have a resident advocate committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for resident advocate committees promulgated by the department on aging. (II)

58.27(1) Role of committee in complaint investigations.
   a. The department shall notify the facility’s resident advocate committee of a complaint from the public. The department shall not disclose the name of a complainant.
   b. The department may refer complaints to the resident advocate committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department on aging. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation or the investigation.
   c. When the department investigates a complaint, upon conclusion of its investigation, it shall notify the resident advocate committee and the department on aging of its findings, including any citations and fines issued.
   d. Results of all complaint investigations addressed by the resident advocate committee shall be forwarded to the department within ten days of completion of the investigation.

58.27(2) The resident advocate committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.

58.27(3) When requested, names, addresses and telephone numbers of family members shall be given to the resident advocate committee, unless the family refuses. The facility shall provide a form on which a family member may refuse to have the family member’s name, address or telephone number given to the resident advocate committee.

This rule is intended to implement Iowa Code section 135C.25.

Safety. The licensee of a nursing facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

58.28(1) Fire safety.
   a. All nursing facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)
   b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

58.28(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)
   a. The plan shall be posted. (III)
   b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

58.28(3) Resident safety.
   a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)
   b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)
   c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)
   d. Smoking shall be permitted only in posted areas. (II, III)
   e. Each resident shall receive adequate supervision to ensure against hazard from self, others, or elements in the environment. (II, III)

Resident care.

58.29(1) There shall be a readily available supply of self-help and ambulation devices such as wheelchairs, walkers, and such other devices maintained in good repair that will meet the current needs of all residents. (III)
58.29(2) The facility shall ensure that each ambulatory resident has well-fitting shoes to provide support and prevent slipping. (III)
58.29(3) Equipment for personal care shall be maintained in a safe and sanitary condition. (II, III)
58.29(4) The expiration date for sterile equipment shall be exhibited on its wrappings. (III)
58.29(5) Residents who have been known to wander shall be provided with appropriate means of identification. (II, III)
58.29(6) Electric heating pads, blankets, or sheets shall be used only on the written order of a physician, when allowed by the Life Safety Code or applicable state or local fire regulations. (II, III)

481—58.30 Rescinded, effective 7/14/82.

481—58.31(135C) Housekeeping.
58.31(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)
58.31(2) Each resident unit shall be cleaned on a routine schedule. (III)
58.31(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)
58.31(4) A hallway or corridor shall not be used for storage of equipment. (III)
58.31(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)
58.31(6) Clothing worn by personnel shall be clean and washable. (III)
58.31(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)
58.31(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)
58.31(9) Polishes used on floors shall provide a nonslip finish. (III)
58.31(10) *Throw or scatter rugs shall not be permitted. (III)

*Objection. For text of Objection, see IAC Supp., Part I, 9/7/77. For text ofFiled rules, 470—Chapter 58, see IAC Supp. 10/5/77.

58.31(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)
58.31(12) Residents shall not have access to storage areas for all cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials. (II, III)
58.31(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)
58.31(14) Definite procedures shall be established for training housekeeping personnel. (III)
58.31(15) Rescinded IAB 12/6/06, effective 1/10/07.
58.31(16) There shall be provisions for the cleaning and storage of housekeeping equipment and supplies for each nursing unit. (III)
58.31(17) Bathtubs, shower stalls, or lavatories shall not be used for laundering, cleaning of utensils and mops, or for storage. (III)
58.31(18) Bedside utensils shall be stored in enclosed cabinets. (III)
58.31(19) Kitchen sinks shall not be used for the cleaning of mops, soaking of laundry, cleaning of bedside utensils, nursing utensils, or dumping of wastewater. (III)
58.31(20) Personal possessions of residents which may constitute hazards to themselves or others shall be removed and stored. (III)

481—58.32(135C) Maintenance.
58.32(1) Each facility shall establish a maintenance program in writing to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. (III)
58.32(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)
58.32(3) Draperies and furniture shall be clean and in good repair. (III)
58.32(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

58.32(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electrical code. (III)

58.32(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

58.32(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. Documentation of these inspections shall be available for review. (III)

58.32(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

58.32(9) The facility shall be kept free of flies, other insects, and rodents. (III)

58.32(10) Maintenance personnel.

a. A written program shall be established for the orientation of maintenance personnel. (III)

b. Maintenance personnel shall:

   (1) Follow established written maintenance programs; (III)

   (2) Be provided with appropriate, well-constructed, and properly maintained equipment. (III)

481—58.33(135C) Laundry.

58.33(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

58.33(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

58.33(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

58.33(4) Residents’ personal laundry shall be marked with an identification. (III)

58.33(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

481—58.34(135C) Garbage and waste disposal.

58.34(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

58.34(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

58.34(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

58.34(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

58.34(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—58.35(135C) Buildings, furnishings, and equipment.

58.35(1) Buildings—general requirements.

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)
f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-half-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of residents’ clothing. (III)

58.35(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department’s approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

58.35(3) Dining and living rooms.

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 58.35(3)“e” are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably provided with parlor furniture, television and radio receivers in good working order, recreational material such as games, puzzles, and cards, and reading material such as current newspapers and magazines. Furnishings and equipment of the room should be such as to allow group activities. (III)

(3) Card tables or game tables shall be made available. The tables should be of a height to allow a person seated in a wheelchair to partake in the games or card playing. (III)

(4) Chairs of proper height and appropriate to their use shall be provided for seating residents at game tables and card tables. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) Dining tables and chairs shall be provided. (III)

(3) Dining tables should be so constructed that a person seated in a wheelchair can dine comfortably. (III)

(4) Tables shall be of sturdy construction with smooth, durable, nonpermeable tops that can be cleaned with a detergent sanitizing solution. (III)

(5) Dining chairs shall be sturdy and comfortable. Some arm chairs should be provided for ease of movement for some residents. (III)

(6) Residents shall be encouraged to eat in the dining room. (III)
58.35(4) Bedrooms.
   a. Each resident shall be provided with a standard, single, or twin bed that is substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. Seventy-five percent of the beds shall have a spring with an adjustable head and foot section. A resident shall have the right to sleep in a chair per the resident’s request and to have the bed removed from the room to allow for additional space. (III)
   b. Each bed shall be equipped with the following: casters or glides unless a low bed and mattress are being used for fall precautions; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average size; and moisture-proof covers and sheets as necessary to keep the mattress and pillows dry and clean. (III)
   c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)
   d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident’s personal wishes shall be considered. (III)
   e. There shall be drawer space for each resident’s clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)
   f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)
   g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
   h. Clothing shall be hung in closets or wardrobes available in each room. (III)
   i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)
   j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)
   k. Reading lamps shall be provided each resident in the resident’s room. (III)
   l. Each room shall have sufficient accessible mirrors to serve the resident’s needs. Mirrors are not required if the room is located in a CCDI unit and the mirrors cause concern for the resident. (III)
   m. Sturdy, adjustable overbed tables shall be provided for each resident who is unable to eat in the dining room. (III)
   n. Each resident bedroom shall have a door. The door shall be the swing type and shall not swing into the corridor. (III)

58.35(5) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

58.35(6) Water supply.
   a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)
   b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)
   c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)
   d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
   e. Hot and cold running water under pressure shall be available in the facility. (III)
   f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department of health. (III)

58.35(7) Nonambulatory residents.
   a. All nonambulatory residents shall be housed on the grade level floor. (II, III)
   b. These provisions in “a” above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.
481—58.36(135C) Family and employee accommodations.

58.36(1) Children under 14 years of age shall not be allowed into the service areas. (III)

58.36(2) The residents’ bedrooms shall not be occupied by employees or family members of the licensee. (III)

58.36(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

58.36(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

58.36(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—58.37(135C) Animals. Animals may be permitted within the facility with prior approval of the department and under controlled conditions. (III)

481—58.38(135C) Supplies.

58.38(1) Linen supplies.

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

58.38(2) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

58.38(3) Supplies and equipment for nursing services.

a. All nursing care equipment shall be properly sanitized or sterilized before use by another resident. (II)

b. There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by 58.10(8)“h,” 58.12(10)“h,” or 581—paragraph 64.12(14)“h.” (I, II, III)

c. Convenient, safe storage shall be provided for bath and toilet supplies, bathroom scales, mechanical lifts, and shower chairs. (III)

d. Sanitary and protective storage shall be provided for all equipment and supplies. (III)

e. All items that must be sterilized shall be autoclaved unless sterile disposable items are furnished which are promptly disposed of after a single use. (III)

f. Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided and, as a minimum, include the following: (III)

<table>
<thead>
<tr>
<th>Bath basins</th>
<th>Rectal tubes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soap containers</td>
<td>Catheters and catheterization equipment</td>
</tr>
<tr>
<td>Denture cups</td>
<td>Douche nozzle</td>
</tr>
<tr>
<td>Emesis basins</td>
<td>Oxygen therapy equipment</td>
</tr>
<tr>
<td>Mouthwash cups</td>
<td>Naso-gastric feeding equipment</td>
</tr>
<tr>
<td>Bedpans</td>
<td>Wheelchairs</td>
</tr>
<tr>
<td>Urinals</td>
<td>Moisture-proof draw sheets</td>
</tr>
<tr>
<td>Enema equipment</td>
<td>Moisture-proof pillow covers</td>
</tr>
</tbody>
</table>
Commodes
Quart graduate measure
Thermometer for measurement of bath water temperature
Oral thermometer
Rectal thermometer
Basins for sterilizing thermometers
Basins for irrigations
Asepto syringes
Sphygmomanometer
Paper towels
Paper handkerchiefs
Insulin syringes
2 cc hypodermic syringes
Weight scales
Hypodermic needles
Stethoscope
Ice caps
Hot water bottles
Moisture-proof mattress covers
Foot tubs
Metal pitcher
Disinfectant solutions
Alcohol
Lubricating jelly
Skin lotion
Applicators
Tongue blades
Toilet paper
Rubber gloves or disposable gloves
Scales for nonambulatory patients
Tourniquet
Suction machine
Medicine dispensing containers
Bandages
Adhesive
Portable linen hampers
Denture identification equipment
Tracheotomy care equipment

481—58.39(135C) Residents’ rights in general.

58.39(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions (subrules 58.39(2) to 58.39(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

58.39(2) Policies and procedures shall address the admission and retention of persons with histories of dangerous or disturbing behavior. For the purposes of the subrule, persons with histories of dangerous or disturbing behavior are those persons who have been found to be seriously mentally impaired pursuant to Iowa Code section 229.13 or 812.1 within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

a. Reasonable precautions to prevent the resident from harming self, other residents, or employees of the facility.

b. Treatment of persons with mental illness as defined in Iowa Code section 229.1(1) and which is provided in accordance with the individualized health care plan.

c. Ongoing and documented staff training on individualized health care planning for persons with mental illness.

58.39(3) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents’ physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

58.39(4) Policies and procedures regarding the use of chemical and physical restraints shall define the use of said restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)
58.39(5) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

58.39(6) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents’ records. (II)

58.39(7) 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, or in the case of residents already in the facility, upon the facility’s adoption or amendment of residents’ rights policies. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents’ rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or the resident’s responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents’ rights and responsibilities. Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of such changes. (II)

58.39(8) Each resident or responsible party shall be fully informed in a contract as required in rule 481—58.13(135C), prior to or at the time of admission and during the resident’s stay, of services available in the facility, and of related charges including any charges for services not covered under the Title XIX program or not covered by the facility’s basic per diem rate. (II)

58.39(9) Each resident or responsible party shall be fully informed by a physician of the resident’s health and medical condition unless medically contraindicated (as documented by a physician in the resident’s record). Each resident shall be afforded the opportunity to participate in the planning of the resident’s total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services’ protection from research risks policy and then only upon the resident’s informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident’s medical condition and be afforded the opportunity to participate in the planning of the resident’s total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)
c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident’s condition is contraindicated, this decision and reasons for it shall be documented in the resident’s record by the physician. (II)

d. The resident’s plan of care shall be based on the physician’s orders. It shall be developed upon admission by appropriate facility staff and shall include participation by the resident if capable. Residents shall be advised of alternative courses of care and treatment and their consequences when such alternatives are available. The resident’s preference about alternatives shall be elicited and honored if feasible.

e. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident’s (or responsible party’s) written informed consent must be received prior to participation. (II)

This rule is intended to implement Iowa Code section 135C.23(2).

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

**481—58.40(135C) Involuntary discharge or transfer.**

58.40(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident’s welfare or that of other residents; for nonpayment for the resident’s stay (as contained in the contract for the resident’s stay), except as prohibited by Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396k by reason of action pursuant to Iowa Code chapter 229; by reason of negative action by the Iowa department of social services; and by reason of negative action by the professional standards review organization. A resident shall not be transferred or discharged solely because the cost of the resident’s care is being paid under Iowa Code chapter 249A, or because the resident’s source of payment is changing from private support to payment under chapter 249A. (I, II)

a. “Medical reasons” for transfer or discharge are based on the resident’s needs and are determined and documented in the resident’s record by the attending physician. Transfer or discharge may be required to provide a different level of care. In the case of transfer or discharge for the reason that the resident’s condition has improved such that the resident no longer needs the level of care being provided by the facility, the determination that such medical reason exists is the exclusive province of the professional standards review organization or utilization review process in effect for residents whose care is paid in full or in part by Title XIX. (II)

b. “Welfare” of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might be transferred or discharged because the resident’s behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with the resident’s needs and rights). Evidence that the resident’s continued presence in the facility would adversely affect the resident’s own welfare or that of other residents shall be made by the administrator or designee and shall be in writing and shall include specific information to support this determination.

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

(1) If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) If the transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility.
(3) If the discharge or transfer is the result of a final, nonappealable decision by the department of social services or the professional standards review organization.

d. The notice required by paragraph “c” shall contain all of the following information:
(1) The stated reason for the proposed transfer or discharge. (II)
(2) The effective date of the proposed transfer or discharge. (II)
(3) A statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department at the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” (II)

e. A request for a hearing made under 58.40(1) ”d”(3) shall stay a transfer or discharge pending a hearing or appeal decision. (II)

f. The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department on aging long-term care ombudsman of record not later than five full business days after receipt of request. This notice shall also inform the licensee, resident or responsible party that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department on aging long-term care ombudsman shall have the right to appear at the hearing.

g. The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or representative requests in writing that it be closed.) The licensee or designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

h. Based upon all testimony and materials submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department on aging long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

i. A copy of the notice required by paragraph “c” shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s
responsible party, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department on aging long-term care ombudsman.

j. If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the professional standards review organization (Iowa Foundation for Medical Care), appeals shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

k. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

l. The involuntary transfer or discharge shall be discussed with the resident, the resident’s responsible party, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made part of the resident’s record. (II)

m. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record. (II)

(1) Counseling shall be provided by a qualified individual who meets one of the following criteria:
1. Has a bachelor’s or master’s degree in social work from an accredited college. (II)
2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency. (II)
3. Has been employed in a social work capacity for a minimum of four years in a public or private agency. (II)
4. Is a licensed psychologist or psychiatrist. (II)
5. Is any other person of the resident’s choice. (II)

(2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

(3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

n. In the case of an emergency transfer or discharge as outlined in 58.40(1) ‘c’ (1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 58.40(1) ‘d’ (1) and (2). In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department at the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” A hearing requested pursuant to this subrule shall be held in accordance with paragraphs “f.” “g.” and “h.” (II)

o. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department of inspections and appeals. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

58.40(2) Intrafacility transfer:
a. Residents shall not be relocated from room to room within a licensed health care facility arbitrarily. (I, II) Involuntary relocation may occur only in the following situations and such situation shall be documented in the resident’s record.

(1) Incompatibility with or disturbing to other roommates, as documented in the resident’s record.
(2) For the welfare of the resident or other residents of the facility.
(3) For medical, nursing or psychosocial reasons, as documented in the resident’s record, as judged by the attending physician, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.
(4) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex.
(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.
(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident’s room without the concurrence of the resident, or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in 58.40(2)*a* (5). (II)
(2) As punishment or behavior modification, except as specified in 58.40(2)*a* (1). (II)
(3) Discrimination on the basis of race or religion. (II)
(c) If intrafacility relocation is necessary for reasons outlined in paragraph “a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident’s record and signed by the resident or responsible party. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition requiring emergency relocation and such notification shall be documented. (II)

481—58.41(135C) Residents’ rights. Each resident shall be encouraged and assisted throughout the resident’s period of stay, to exercise rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident’s choice, free from interference, coercion, discrimination, or reprisal. (II)

58.41(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

58.41(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

a. Designation of an employee responsible for handling grievances and recommendations. (II)

b. A method of investigating and assessing the validity of a grievance or recommendation. (II)

c. Methods of resolving grievances. (II)

d. Methods of recording grievances and actions taken. (II)

58.41(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, and resident advocate committee members and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

481—58.42(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident’s own personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)
58.42(1) The facility shall maintain a written account of all residents’ funds received by or deposited with the facility. (II)
58.42(2) An employee shall be designated in writing to be responsible for resident accounts. (II)
58.42(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident’s responsible party shall designate a method of disbursing the resident’s funds. (II)
58.42(4) If the facility makes financial transactions on a resident’s behalf, the resident must receive or acknowledgment that the resident has seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident’s financial or business record. (II)
58.42(5) A resident’s personal funds shall not be used without the written consent of the resident or the resident’s guardian. (II)
58.42(6) A resident’s personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident’s guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.43(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental and physical abuse. Each resident shall be free from chemical and physical restraints except as follows: when authorized in writing by a physician for a specified period of time; when necessary in an emergency to protect the resident from injury to the resident or to others, in which case restraints may be authorized by designated professional personnel who promptly report the action taken to the physician; and in the case of an intellectually disabled individual when ordered in writing by a physician and authorized by a designated qualified intellectual disabilities professional for use during behavior modification sessions. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)
58.43(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)
58.43(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)
58.43(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff. (II)
58.43(4) Physicians’ orders are required to utilize all types of physical restraints and shall be renewed at least quarterly. (II) Physical restraints are defined as the following:
Type I—the equipment used to promote the safety of the individual but is not applied directly to their person. Examples: divided doors and totally enclosed cribs.
Type II—the application of a device to the body to promote safety of the individual. Examples: vest devices, soft-tie devices, hand socks, geriatric chairs.
Type III—the application of a device to any part of the body which will inhibit the movement of that part of the body only. Examples: wrist, ankle or leg restraints and waist straps.
58.43(5) Physical restraints are not to be used to limit resident mobility for the convenience of staff and must comply with life safety requirements. If a resident’s behavior is such that it may result in injury to the resident or others and any form of physical restraint is utilized, it should be in conjunction with a treatment procedure(s) designed to modify the behavioral problems for which the resident is restrained, or as a last resort, after failure of attempted therapy. (I, II)
58.43(6) Each time a Type II or III restraint is used documentation on the nurse’s progress record shall be made which includes type of restraint and reasons for the restraint and length of time resident was restrained. The documentation of the use of Type III restraint shall also include the time of position change. (II)
58.43(7) Each facility shall implement written policies and procedures governing the use of restraints which clearly delineate at least the following:

a. Physicians' orders shall indicate the specific reasons for the use of restraints. (II)

b. Their use is temporary and the resident will not be restrained for an indefinite amount of time. (I, II)

c. A qualified nurse shall make the decision for the use of a Type II or Type III restraint for which there shall be a physician's order. (II)

d. A resident placed in a Type II or III restraint shall be checked at least every 30 minutes by appropriately trained staff. No form of restraint shall be used or applied in such a manner as to cause injury or the potential for injury and provide a minimum of discomfort to resident restrained. (I, II)

e. Reorders are issued only after the attending physician reviews the resident's condition. (II)

f. Their use is not employed as punishment, for the convenience of the staff, or as a substitute for supervision or program. (I, II)

g. The opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which Type II and Type III restraints are employed, except when resident is sleeping. However, when resident awakens, this shall be provided. This shall be documented each time. A check sheet may serve this purpose. (I, II)

h. Locked restraints or leather restraints shall not be permitted except in life-threatening situations. Straight jackets and secluding residents behind locked doors shall not be employed. (I, II)

i. Nursing assessment of the resident's need for continued application of a Type III restraint shall be made every 12 hours and documented on the nurse's progress record. Documentation shall include the type of restraint, reason for the restraint and the circumstances. Nursing assessment of the resident's need for continued application of either a Type I or Type II restraint and nursing evaluation of the resident's physical and mental condition shall be made every 30 days and documented on the nurse's progress record. (II)

j. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room. (II)

k. Divided doors shall be of the type that when the upper half is closed the lower section shall close. (II)

l. Methods of restraint shall permit rapid removal of the resident in the event of fire or other emergency. (I, II)

m. The facility shall provide orientation and ongoing education programs in the proper use of restraints.

58.43(8) In the case of an intellectually disabled individual who participates in a behavior modification program involving use of restraints or aversive stimuli, the program shall be conducted only with the informed consent of the individual's parent or responsible party. Where restraints are employed, an individualized program shall be developed by the interdisciplinary team with specific methodologies for monitoring its progress. (II)

a. The resident's responsible party shall receive a written account of the proposed plan of the use of restraints or aversive stimuli and have an opportunity to discuss the proposal with a representative(s) of the treatment team. (II)

b. The responsible party must consent in writing prior to the use of the procedure. Consent may also be withdrawn in writing. (II)

58.43(9) Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain that separation until the abuse investigation is completed. (I, II)

58.43(10) Suspected abuse reports. The department shall investigate all complaints of dependent adult abuse which are alleged to have happened in a health care facility. The department shall inform the department of human services of the results of all evaluations and dispositions of dependent adult abuse investigations.

58.43(11) Pursuant to Iowa Code chapter 235B, a mandatory reporter of dependent adult abuse is any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult
and reasonably believes the dependent adult has suffered abuse. This includes a member of the staff or employee of a health care facility. (II, III)

If a staff member or employee is required to report pursuant to this subrule, the staff member or employee shall immediately notify the person in charge of the facility or the person's designated agent, and the person in charge or the designated agent shall make the report to the department of human services. (II, III)

This rule is intended to implement Iowa Code sections 135C.14, 235B.3(1), and 235B.3(11).

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.44(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident’s records, including information contained in an automatic data bank. The resident’s written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

58.44(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

58.44(2) Similar procedures shall safeguard the confidentiality of residents’ personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

58.44(3) The resident, or the resident’s responsible party, shall be entitled to examine all information contained in the resident’s record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident’s record. (II)

481—58.45(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (II)

58.45(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

58.45(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents’ individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

58.45(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain 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. (II)

58.45(4) Privacy of a resident’s body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

58.45(5) Staff shall knock and be acknowledged before entering a resident’s room unless the resident is not capable of a response. This shall not apply in emergency conditions. (II)

481—58.46(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

58.46(1) Residents may not be used to provide a source of labor for the facility against their will. Physician’s approval is required for all work programs. (I, II)
481—58.47(135C) 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, and may send and receive personal mail unopened. (II)

58.47(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

58.47(2) 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:
   a. The resident refuses to see the visitor(s). (II)
   b. The resident’s physician documents specific reasons why such a visit would be harmful to the resident’s health. (II)
   c. The visitor’s behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

58.47(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility’s staff; or at the resident’s request. (II)

58.47(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

58.47(5) Telephones consistent with ANSI standards (405.1134(c)) 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. (II)

58.47(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

58.47(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

58.47(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

58.46(2) If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II)

58.46(3) Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

481—58.48(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident’s discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident’s record. (II)

58.48(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

58.48(2) All residents shall have the freedom to refuse to participate in these activities. (II)

481—58.49(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

58.49(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)
58.49(2) 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. (II)

58.49(3) Any personal clothing or possessions retained by the facility for the resident during the resident’s stay shall be identified and recorded on admission and a record placed on the resident’s chart. The facility shall be responsible for secure storage of the items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

58.49(4) A resident’s personal property shall not be used without the written consent of the resident or the resident’s guardian. (II)

58.49(5) A resident’s personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident’s guardian. The department may report findings that a resident’s property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—58.50(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident’s spouse; if both are residents in the facility, they shall be permitted to share a room if available. (II)

58.50(1) The facility shall provide for needed privacy in visits between spouses. (II)

58.50(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident. (II)

58.50(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

481—58.51(135C) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility.

A facility shall not require the repackaging of medications dispensed by the Veterans Administration or an institution operated by the Veterans Administration for the purpose of making the drug distribution system compatible with the system used by the facility. (II)

481—58.52(135C) Incompetent resident.

58.52(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident’s responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

58.52(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents’ rights. (II)

481—58.53(135C) County care facilities. In addition to Chapter 58 licensing rules, county care facilities licensed as nursing facilities must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

481—58.54(73GA,ch 1016) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).

58.54(1) A nursing facility which chooses to care for residents in a distinct part shall obtain a license for a CCDI unit or facility. In the case of a distinct part, this license will be in addition to its ICF license. The license shall state the number of beds in the unit or facility. (III)
a. Application for this category of care shall be submitted on a form provided by the department.
(III)

b. Plans to modify the physical environment shall be submitted to the department. The plans shall be reviewed based on the requirements of 481—Chapter 61. (III)

58.54(2) A statement of philosophy shall be developed for each unit or facility which states the beliefs upon which decisions will be made regarding the CCDI unit or facility. Objectives shall be developed for each CCDI unit or facility as a whole. The objectives shall be stated in terms of expected results. (II, III)

58.54(3) A résumé of the program of care shall be submitted to the department for approval at least 60 days before a separate CCDI unit or facility is opened. A new résumé of the program of care shall be submitted when services are substantially changed. (II, III)

The résumé of the program of care shall:
a. Describe the population to be served; (II, III)
b. State philosophy and objectives; (II, III)
c. List admission and discharge criteria; (II, III)
d. Include a copy of the floor plan; (II, III)
e. List the titles of policies and procedures developed for the unit or facility; (II, III)
f. Propose a staffing pattern; (II, III)
g. Set out a plan for specialized staff training; (II, III)
h. State visitor, volunteer, and safety policies; (II, III)
i. Describe programs for activities, social services and families; (II, III) and
j. Describe the interdisciplinary care planning team. (II, III)

58.54(4) Separate written policies and procedures shall be implemented in each CCDI unit or facility. There shall be:
a. Admission and discharge policies and procedures which state the criteria to be used to admit residents and the evaluation process which will be used. These policies shall require a statement from the attending physician agreeing to the placement before a resident can be moved into a CCDI unit or facility. (II, III)
b. Safety policies and procedures which state the actions to be taken by staff in the event of a fire, natural disaster, emergency medical or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility and when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility. The facility shall identify its method for security of the unit or facility and the manner in which the effectiveness of the security system will be monitored. (II, III)
c. Program and service policies and procedures which explain programs and services offered in the unit or facility including the rationale. (III)
d. Policies and procedures concerning staff which state minimum numbers, types and qualifications of staff in the unit or facility. (II, III)
e. Policies about visiting which suggest times and ensure the residents’ rights to free access to visitors. (II, III)
f. Quality assurance policies and procedures which list the process and criteria which will be used to monitor and to respond to risks specific to the residents. This shall include, but not be limited to, drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

58.54(5) Preadmission assessment of physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by a registered nurse and a staff social worker or social work consultant and shall become part of the permanent record upon admission of the resident. (II, III)

58.54(6) All staff working in a CCDI unit or facility shall have training appropriate to the needs of the residents. (II, III)
a. Upon assignment to the unit or facility, everyone working in the unit or facility shall be oriented to the needs of people with chronic confusion or dementing illnesses. They shall have special training
appropriate to their job description within 30 days of assignment to the unit or facility. (II, III) The orientation shall be at least six hours. The following topics shall be covered:

1. Explanation of the disease or disorder; (II, III)
2. Symptoms and behaviors of memory-impaired people; (II, III)
3. Progression of the disease; (II, III)
4. Communication with CCDI residents; (II, III)
5. Adjustment to care facility residency by the CCDI unit or facility residents and their families; (II, III)
6. Inappropriate and problem behavior of CCDI unit or facility residents and how to deal with it; (II, III)
7. Activities of daily living for CCDI residents; (II, III)
8. Handling combative behavior; (II, III) and
9. Stress reduction for staff and residents. (II, III)

b. Licensed nurses, certified aides, certified medication aides, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of CCDI residents. The six-hour training shall count toward the required annual in-service training. (II, III)

58.54(7) There shall be at least one nursing staff person on a CCDI unit at all times. (I, II, III)
58.54(8) The CCDI unit or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and Iowa Administrative Code 481—Chapter 50.

This rule is intended to implement 1990 Iowa Acts, chapter 1016.

481—58.55(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the physical structure of the facility, if the other business or activity meets the requirements of applicable state and federal laws, administrative rules, and federal regulations.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “f” of subrule 58.55(1). (I, II, III)

58.55(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;
b. Noise created by the proposed business or activity;
c. Odors created by the proposed business or activity;
d. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
e. Proposed staffing for the business or activity; and
f. Sharing of services and staff between the proposed business or activity and the facility.

58.55(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

58.55(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 61. (I, II, III)

481—58.56(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A nursing facility which chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a nursing facility.
58.56(1) A nursing facility certified as a Medicaid nursing facility or Medicare skilled nursing facility must meet all Medicaid and Medicare requirements including CFR 483.12, admission, transfer and discharge rights.

58.56(2) A nursing facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

58.56(3) Rule 481—58.40(135C) regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

58.56(4) Pursuant to rule 481—58.13(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—58.13(135C), except the requirements under subrule 58.13(7).

58.56(5) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

481—58.57(135C) Training of inspectors.

58.57(1) Subject to the availability of funding, all nursing facility inspectors shall receive 12 hours of annual continuing education in gerontology, wound care, dementia, falls, or a combination of these subjects.

58.57(2) An inspector shall not be personally liable for financing the training required under subrule 58.57(1).

58.57(3) The department shall consult with the collective bargaining representative of the inspector in regard to the training required under this rule.

[ARC 8433B, IAB 12/30/89, effective 2/3/10]


[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]
[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]
[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]
[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]
[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]
[Filed emergency 9/30/77—published 10/19/77, effective 9/30/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed without Notice 7/16/82—published 8/4/82, effective 9/8/82]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]
[Filed 6/27/86, Notice 3/26/86—published 7/16/86, effective 8/20/86]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed 2/6/87, Notice 10/22/86—published 2/25/87, effective 4/1/87]
[Filed 2/6/87, Notice 11/5/86—published 2/25/87, effective 4/1/87]
[Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 10/26/87, Notice 8/26/87—published 11/18/87, effective 12/23/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88] 1
[Filed 1/5/89, Notice 10/5/88—published 1/25/89, effective 3/1/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]

[Filed emergency 5/11/90—published 5/30/90, effective 5/11/90]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed emergency 7/17/91—published 8/7/91, effective 7/19/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 1/15/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/21/99, Notice 10/7/98—published 2/10/99, effective 3/17/99]
[Filed 11/12/99, Notice 10/6/99—published 12/1/99, effective 1/5/00]
[Filed 7/17/03, Notice 6/11/03—published 8/6/03, effective 9/10/03]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]
[Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07] 2
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
[Filed ARC 8433B (Notice ARC 8190B, IAB 10/7/09), IAB 12/30/09, effective 2/3/10]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]

1 Two or more ARCs
2 Effective date of 470—58.15(2) “c” delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86.
Effective date of 470—58.15(2) “c” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

See IAB, Inspections and Appeals Department.
CHAPTER 62
RESIDENTIAL CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)

481—62.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered incorporated verbatim in the rules. The use of the words “shall” and “must” indicate these standards are mandatory.

“Abuse” means any of the following as a result of the willful or negligent acts or omissions of a caretaker:
1. Physical abuse
2. Physical injury to or unreasonable confinement or cruel punishment of a resident
3. Sexual abuse
4. Mental abuse
5. Verbal abuse
6. Exploitation of a resident
7. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a resident’s life or health as a result of the acts or omissions of the resident.

“Academic services” means those activities provided to assist a person to acquire general information and skills which establish the basis for subsequent acquisition and application of knowledge.

“Age appropriate” means those activities, settings, and personal appearance and possessions commensurate with the person’s chronological age.

“Chronic mental illness” means a persistent mental or emotional disorder that seriously impairs an adult’s functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment.

“Commission” means the mental health and mental retardation commission.

“Community living training services” are those activities provided to assist a person to acquire or sustain the knowledge and skills essential to independent functioning to the person’s maximum potential in the physical and social environment. These services may focus on the following areas:
1. Independent living skills means those skills necessary to sustain oneself in the physical environment and are essential to the management of one’s personal property and business. This includes self-advocacy skills.
2. Socialization skills which include self-awareness and self-control, social responsiveness, group participation, social amenities, and interpersonal skills.
3. Communication skills which include expressive and receptive skills in verbal and nonverbal language including reading and writing.
4. Leisure time and recreational skills which include the skills necessary for a person to use leisure time in a manner which is satisfying and constructive to the person.
5. Parenting skills which include those skills necessary to meet the needs of the person’s child. This service is designed to assist the person with mental illness to acquire or sustain the skills necessary for parenting.

“Department” means the Iowa department of inspections and appeals.

“Diagnosis” means the investigation and analysis of the cause or nature of a person’s condition, situation, or problem.

“Direct care staff” means those staff persons who provide a homelike environment for the residents and assist or supervise the resident in meeting the goals in the resident’s program plan.

“Evaluation services” means those activities designed to identify a person’s current functioning level and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.
“Exploitation” means the act or process of taking unfair advantage of a resident, or the resident’s physical or financial resources, for one’s own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

“Goals” means general statements of attainable expected accomplishments to be achieved in meeting identified needs.

“Incident” means all accidental, purposeful, or other occurrences within the facility or on the premises affecting residents, visitors, or employees whether there is apparent injury or where hidden injury may have occurred.

“Individual program plan (IPP)” means a written plan for the provision of services to the resident that is developed and implemented using an interdisciplinary process, that is based on the resident’s functional status, strengths and needs, and that identifies service activities designed to enable a person to maintain or move toward independent functioning. The plan identifies a continuum of development and outlines progressive steps and anticipated outcomes of services.

“Informed consent” means an agreement by a person, or by the person’s legally authorized representative, based upon an understanding of:

1. A full explanation of the procedures to be followed including an identification of those that are and are not experimental,
2. A description of the attendant discomforts, risks, and benefits to be expected,
3. A disclosure of appropriate alternative procedures that would be advantageous for the person.

“Interdisciplinary process” means an approach to assessment, individual program planning, and service implementation in which planning participants function as a team. Each participant utilizing the skills, competencies, insights and perspectives provided by the participant’s training and experience focuses on identifying the service needs of the resident and the resident’s family. The purpose of the process is for participants to review and discuss, face-to-face, all information and recommendations and to reach decisions as a team. Participants share all information and recommendations, and develop as a team a single, integrated, individual program plan to meet the resident’s and, when appropriate, the resident’s family’s needs.

“Interdisciplinary team” means the group of persons who develop a single, integrated, individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian, if applicable, the resident’s advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to resident’s needs.

“Least restrictive environment” means the environment in which the interventions in the lives of people with mental illness can be carried out with a minimum of limitation, intrusion, disruption, and departure from commonly accepted patterns of living.

It is the environment which allows residents to participate, to the maximum extent possible, in everyday life and to have control over the decisions that affect them. It is an environment that provides needed supports which do not interfere with personal liberty and do not unduly interfere with a person’s access to the normal events of life.

“Legal services” means those activities designed to assist the person in exercising constitutional and legislatively enacted rights.

“Level of functioning” means a person’s current physiological and psychological status and current academic, community living, self-care, and vocational skills.

“Long-term residential care facility for persons with mental illness (RCF/PMI)” means a residential setting to maintain or improve community living skills to reach maximum potential for independent living and to prevent movement to a more restrictive setting.

“Mechanical restraint” means a device applied to a person’s limbs, head, or body which restricts a person’s movement and includes but is not limited to leather straps, leather cuffs, camisoles, or handcuffs.

“Mental abuse” means, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.

“Mental illness” means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands
of life. Mental disorders include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

“Normalization” means helping persons, in accordance with their needs and preference, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the age-appropriate and least restrictive principles.

“Objectives” means specific, time-limited, and measurable statements showing outcomes or accomplishments necessary to progress toward the goal.

“Physical abuse” means, but is not limited to, corporal punishment and the use of restraints as punishment.

“Physical injury” means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition. It may also mean damage to the extent the bodily tissue cannot be restored to a sound and healthy condition, or results in the death of the resident whose bodily tissue sustained the damage.

“Physical or physiological treatment” means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

“Physical restraint” means a technique involving the use of one or more of a staff person’s arms, legs, hands or other body areas to restrict or control the movements of a resident. This does not include the use of mechanical restraint.

“Physician” means a person licensed to practice medicine and surgery, osteopathy and surgery, or chiropractic under the laws of this state; but a physician licensed as a physician and surgeon shall be designated as a “physician” or “surgeon”; a person licensed as an osteopath and surgeon shall be designated as an “osteopathic physician” or “osteopathic surgeon”; a person designated as an osteopath shall be designated as an “osteopathic physician”; and a person licensed as a chiropractor shall be designated as a “chiropractor.”

“Program” means a set of related resources and services directed to the accomplishment of a fixed set of goals and objectives for any of the following:

1. Special target populations,
2. The population of a specified geographic area(s),
3. A specified purpose, and
4. A person.

“Psychotherapeutic treatment” means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person’s functioning in response to the physical, emotional and social environment.

“Qualified mental health professional (QMHP)” means a person who:

- Is a psychiatrist, psychologist, social worker, psychiatric nurse or mental health counselor; or
- Is a doctor of medicine or osteopathic medicine or has at least a master’s degree or its equivalent with coursework focusing on diagnosis and evaluation and psychotherapeutic treatment of mental health problems and mental illness.

Equivalent means at least 32 semester hours of graduate level study in the following areas:

1. Psychology (normal and abnormal)
2. Assessment (psychological and physiological)
3. Growth, development, and personality
4. Learning theory
5. Counseling theory and technique (group dynamics)
6. Human behavior
7. Sociology
8. Interpersonal relations
9. Change
10. Systems theory
11. Interdisciplinary team process
12. Organizational theory
13. Planning

These persons must have two years of documented supervised experience in providing mental health services; or

is employed by a community mental health center or mental health service provider accredited by the commission and has less than a master’s degree but at least a bachelor’s degree and sufficient education and experience as determined by the chief administrative officer of the community mental health center, with the approval of the commission with coursework and experience focusing on diagnosis and evaluation and treatment of persons with mental health problems and mental illness.

All persons must hold a current license when required by Iowa law.

1. “Psychiatrist” means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

2. “Psychologist” means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements for eligibility for a license to practice psychology in the state of Iowa that were effective prior to July 1, 1985.

3. “Social worker” means a person who is licensed to practice social work in the state of Iowa, or who is eligible for licensure.

4. “Psychiatric nurse” means a person who meets the requirements of certified psychiatric-mental health nurse practitioner pursuant to 655—Chapter 7, Iowa Administrative Code, or is eligible for certification.

5. “Mental health counselor” means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

“Resident” means a person who has been admitted to the facility to receive care and services.

“Seclusion” means the isolation of the resident in a locked room which cannot be opened by the resident.

“Self-care training services” means those activities provided to assist a person to acquire or sustain the knowledge, habits, and skills essential to the daily needs of the person. The activities focus on personal hygiene, general health maintenance, mobility skills, and other activities of daily living.

“Service” means a set of interrelated activities provided to a resident pursuant to the IPP.

“Sexual abuse” means, but is not limited to, the exposing of pubes to a resident, the exposure of a resident’s genitals, pubes, breasts or buttocks for sexual satisfaction, fondling or touching the inner thigh, groin, buttocks, anus or breast of a resident or the clothing covering these areas, sexually suggestive comments or remarks made to a resident, a genital to genital or oral to genital contact or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.

“Short-term transitional residential care facility for persons with mental illness” means a transitional setting to move the person toward independent living by helping the person gain mastery of independent living skills.

“Support services” means those activities provided to or on behalf of a person in the areas of personal care and assistance and property maintenance in order to allow a person to live in the least restrictive environment.

“Transportation services” means those activities designed to assist a person to travel from one place to another to obtain services or carry out life’s activities.

“Verbal abuse” means, but is not limited to, the use of derogatory terms or names, undue voice volume and rude comments, orders, or responses to residents.

“Vocational training services” means those activities designed to familiarize a person with production or employment requirements and to maintain or develop the person’s ability to function in a work setting. This service includes programming which allows or promotes the development of skills, attitudes, and personal attributes appropriate to the work setting.

“Work” means any activity during which a resident provides goods or services for wages.

“Written, in writing or recorded” means that an account or entry is made in a permanent form.
481—62.2(135C) Application for license.

62.2(1) Initial application and licensing. In order to obtain an initial license for a residential care facility for persons with mental illness, the applicant must meet all of the rules, regulations, and standards contained in Iowa Code chapter 135C, and Iowa Administrative Code 481—Chapters 60 and 62, and submit an application to the department which states the type and category of license for which the facility is applying.

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) An 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, employment services, sheltered living arrangements, and services of private agencies.
   (5) A description of working relationships with the human services agencies when applicable, which shall include at a minimum:
      1. A description of how the facility will coordinate with the human services to facilitate continuity of care and coordination of services to residents; and
      2. A description of how the facility will coordinate with those 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 bathroom; and designation of the use to which 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 residential care facility license;

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

62.2(2) Renewal application or change of ownership. In order to obtain a renewal or change of ownership license of the residential care facility to serve persons with mental illness the applicant must:

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

b. Submit the statutory license fee for a residential care facility for persons with mental illness 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 as to compliance with fire safety rules.

d. Submit documentation of review of résumé of care pursuant to 62.2(1)”a” and a copy of any revisions to the plan.

This rule is intended to implement Iowa Code sections 135C.7 and 135C.9.

481—62.3(135C) Licenses for distinct parts.

62.3(1) Separate licenses may be issued for distinct parts which are clearly identifiable parts of a health care facility, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

62.3(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 them within that part. (III)

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

c. The distinct part must be operationally and financially feasible.
d. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

62.3(3) Licenses are issued to the person or governmental unit which has 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.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.6(2).

481—62.4(135C) Variances. Variances from these rules may be granted by the director of the department:

1. When the need for a variance has been established consistent with the résumé of care or the resident’s individual program plan.
2. When there is no danger to the health, safety, welfare, or rights of any resident.
3. The variance will apply only to a specific residential care facility for the mentally ill.
4. Variances shall be reviewed at the time of each licensure survey by the department to see if the need for the variance is still acceptable.

62.4(1) To request a variance, the licensee must:

a. Apply in writing on a form provided by the department;

b. Cite the rule or rules from which a variance is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain how the variance is consistent with the résumé of care or the individual program plan;

e. Demonstrate that the requested variance will not endanger the health, safety, welfare, or rights of any resident.

62.4(2) Upon receipt of a request for variance, the director shall:

a. Examine the rule from which the variance is requested;

b. Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the residents;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant to obtain additional written information if required.

62.4(3) Based upon this information, approval of the variance will be either granted or denied within 120 days of receipt.

481—62.5(135C) General requirements.

62.5(1) The license shall be valid and be posted in each facility so the public can see it easily. (III)

62.5(2) The license shall be valid only for the premises and person named on the license and is not transferable.

62.5(3) The posted license shall accurately reflect the current status of the residential care facility for persons with mental illness. (III)

62.5(4) Licenses expire one year after the date of issuance or as indicated on the license.

62.5(5) There shall be no more beds erected than are stipulated on the license. (II, III)

62.5(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

This rule is intended to implement Iowa Code section 135C.8.

481—62.6(135C) Notification required by the department. The department shall be notified:
Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staff ratio below that required for licensing. No additional residents shall be admitted until the minimum staff requirements are achieved. (II, III)

Within 30 days of any proposed change in the résumé of care for the RCF/PML. (II, III)

Thirty days before addition, alteration, or new construction is begun in the residential care facility or on the premises; (III)

Thirty days in advance of closure of the residential care facility for persons with mental illness; (III)

Within two weeks of any change of administrator; (II, III)

Within 30 days when any change in the category of license is sought. (III)

Prior to the purchase, transfer, assignment, or lease of a residential care facility the licensee shall:

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

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

3. Submit a written authorization to the department permitting the department to release information of whatever kind from the department’s files concerning the licensee’s residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

After the authorization has been submitted to the department, the department shall upon request send or give copies of all recent licensure surveys and any other pertinent information relating to the facility’s licensure status to the prospective purchaser, transferee, assignee or lessee. Costs for copies requested shall be paid by the prospective purchaser, transferee, assignee or lessee. No information personally identifying any resident shall be provided to prospective purchaser, transferee, assignee or lessee. (II, III)

This rule is intended to implement Iowa Code sections 135C.6(3) and 135C.16(2).

481—62.7(135C) Administrator. Each residential care facility for persons with mental illness shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (II, III)

62.7(1) The administrator shall be at least 21 years of age and shall meet at least one of the following conditions:

   a. Be a licensed nursing home administrator, or a certified residential care administrator in Iowa. These individuals must have at least two years’ experience in direct care or supervision of persons with mental illness, (II, III) or

   b. Be a qualified mental health professional (QMHP) with at least one year of experience in an administrative capacity in a health care facility, (II, III) or

   c. Have completed a one-year educational training program approved by the department with emphasis on serving the needs of persons with mental illness, and two years’ experience in direct care or supervision of persons with mental illness. (II, III)

   d. Those individuals currently employed as administrators on the effective date of these rules (March 30, 1988) shall not be required to meet the above criteria during their employment in the current facility.

62.7(2) The administrator shall be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II, III)

   a. The distance between the two farthest facilities shall be no greater than 50 miles. (II, III)

   b. An administrator of more than one facility must designate an administrative staff person in each facility who shall be responsible for directing programs in the facility during the administrator’s absence. (II, III)

62.7(3) The administrative staff person shall be designated in writing and immediately available to the facility on a 24-hour basis when the administrator is absent and residents are in the facility. (II, III)

The person(s) designated shall:
a. Have at least two years’ experience or training in a supervisory or direct care position in a mental health setting; (II, III)
  b. Be knowledgeable of the operation of the facility; (II, III)
  c. Have access to records concerned with the operation of the facility; (II, III)
  d. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)
  e. Be at least 21 years of age; (III)
  f. Be empowered to act on behalf of the licensee during the administrator’s absence concerning the health, safety, and welfare of the residents; (II, III)
  g. Have training to carry out assignments and take care of emergencies and sudden illnesses of residents. (II, III)

62.7(4) If an administrator serves more than one facility, a written plan shall be developed and available for review and approval by the department designating regular and specific times the administrator will be available to meet with the staff and residents to provide direction and supervision of resident care and services. (II, III)

62.7(5) The licensee may be the approved administrator providing the requirements set forth in these rules are met. (III)

62.7(6) When a facility has been unable to replace the administrator, through no fault of its own, a provisional administrator meeting the qualifications of the administrative staff person may be appointed on a temporary basis by the licensee to assume the administrative responsibilities for the facility. This person shall not serve more than three months. The department must be notified before the appointment of the provisional administrator. (III)

A facility applying for initial licensing shall not have a provisional administrator. (III)

This rule is intended to implement Iowa Code section 135C.14(2).

481—62.8(135C) Administration.

62.8(1) The licensee shall:
  a. Be responsible for the overall operation of the RCF/PMI. (III)
  b. Be responsible for compliance with all applicable laws and with the rules of the department. (II, III)
  c. Establish written policies, which shall be available for review by the department or other agencies designated by Iowa Code section 135C.16(3), for the operation of the RCF/PMI including but not limited to: (III)

1. Personnel (III)
2. Admission (III)
3. Evaluation services (II, III)
4. Programming and individual program plan (II, III)
5. Crisis intervention (II, III)
6. Discharge or transfer (III)
7. Medication management (II)
8. Resident property (II, III)
9. Financial affairs (II, III)
10. Records (III)
11. Health and safety (II, III)
12. Nutrition (III)
13. Physical facilities and maintenance (III)
14. Care review (III)
15. Resident rights (II, III)
  d. Furnish statistical information concerning the operation of the facility to the department within 30 days of request. (III)
62.8(2) The administrator shall be responsible for the implementation of procedures to support the policies established by the licensee. (III)
This rule is intended to implement Iowa Code section 135C.14.

481—62.9(135C) Personnel.

62.9(1) The personnel policies and procedures shall include the following requirements: (III)
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. (III)
b. Annual performance evaluation of all employees and consultants which is dated and signed by the employee or consultant and the supervisor. (III)
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 hired. (III)
d. Roles, responsibilities, and limitation of student interns and volunteers. (III)
e. An orientation program for all newly hired employees and consultants which includes an introduction to the facility’s personnel policies and procedures, and a discussion of the facility’s safety plan. (II, III)
f. A plan for a continuing education program with a minimum of eight in-service programs per year for all employees which shall include a written, individualized staff development plan for each employee. This includes, but is not limited to, the administrator, department heads, and direct care staff. The plan shall take into consideration the needs of the facility as identified in the résumé of care. The plan shall ensure that each employee has the opportunity to develop and enhance skills and to broaden and increase knowledge contributing to effective resident care, including but not limited to: (II, III)
   (1) First aid. (II, III)
   (2) Human needs and behavior. (II, III)
   (3) Problems and needs of persons with mental illness. (II, III)
   (4) Medication. (II, III)
   (5) Crisis intervention. (II)
   (6) Delivery of services in accordance with the principles of normalization. (III)
   (7) Wellness. (III)
   (8) Fire safety, disaster, and tornado preparation. (II, III)
g. Equal opportunity and affirmative action employment practices. (III)
h. Procedures to be used when disciplining an employee. (III)
i. Appropriate dress and personal hygiene for staff and residents. (III)

62.9(2) The facility shall require regular health examinations for all personnel, and examinations shall be required at the commencement of employment and thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (III)
   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, (I, II, III)
      (2) Which presents a significant risk of infecting others, (I, II, III)
      (3) Which presents a substantial possibility of harming others, and (I, II, III)
      (4) For which no reasonable accommodation can eliminate the risk. (I, II, III)
   Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).
   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. (III)
   c. Health certificates for all employees shall be available for review by the department. (III)

62.9(3) Staffing. The facility shall establish, subject to approval of the department, the numbers and qualifications of the staff required in an RCF/PMI using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)
a. Personnel in an RCF/PMI shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed at all times in facilities over 15 beds. In facilities with 15 or less beds, personnel shall be up and dressed when residents are awake. (II, III)

b. The policies and procedures shall provide for staff accessibility during normal sleeping hours in facilities with 15 beds or less. (I)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. The policies and procedures shall provide for an on-call staff person to be available when residents and staff are absent from the facility. (II, III)

1. The on-call staff person shall be designated in writing.
2. Residents shall be informed of how to call the on-call person.

d. The staffing plan shall ensure that at least one qualified direct care staff is on duty to carry out and implement the individual program plans. (II, III)

e. The RCF/PMI shall provide for services of a qualified mental health professional by direct employment or contract and whose responsibilities shall include, but not be limited to: (II, III)

1. Approval of each resident’s individual program plan; (II, III)
2. Monitoring the implementation of each resident’s individual program plan; (II, III)
3. Recording each resident’s progress; (II, III)
4. Participation in a periodic review of each individual program plan pursuant to 62.12(4) “a” and “b.” (II, III)

f. Each residential care facility with over 15 beds shall employ a person to direct the activity program both inside and outside the facility in accordance with each resident’s individual program plan. (III)

g. Staff for the activity program shall be provided on a minimum basis of 45 minutes per licensed bed per week:

1. The activity coordinator shall have completed the activity coordinator’s orientation course approved by the department within six months of beginning employment or have comparable training and experience as approved by the department. (III)
2. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. (III)
3. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

h. The activity coordinator shall have access to all residents’ records excluding financial records; (III)

i. Responsibilities of the activity coordinator shall include:

1. Coordinating all activities, including volunteer or auxiliary activities and religious services. (III)
2. Keeping all necessary records including attendance, individual resident progress notes at least quarterly, and monthly calendars prepared one month in advance. (III)
3. Coordinating the activity program with all other services in the facility. (III)
4. Participating in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

62.9(4) Personnel record. A personnel record shall be kept for each employee. (III)

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

b. The personnel records shall be made available to the long-term care resident’s advocate/ombudsman of the department on aging in response to a complaint being investigated.

62.9(5) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

This rule is intended to implement Iowa Code sections 135C.14(2) and 135C.14(6).

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—62.10(135C) General admission policies. There shall be admission policies which address the following:

1. No resident shall be admitted or retained who is in need of greater services than the facility can provide. (II, III)
2. Residents shall be admitted only on a written order signed by a physician certifying that the individual requires no more than personal care and supervision and does not require nursing care. (II, III)
3. A preplacement visit shall be completed prior to admission, except in case of an emergency admission or readmission, to familiarize the applicant with the facility and services offered. The policies and procedures may allow for waiving the requirement at the request of a person seeking admission when the completion of the visit would create a hardship for the person seeking admission. If the distance to be traveled makes it impossible to complete the visit in an eight-hour day, this may be considered to create a hardship. (III)
4. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the person’s needs. (III)
5. Admission criteria shall include but not be limited to age, sex, diagnosis, from the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)
6. Each facility shall maintain a waiting list with selection priorities identified. (III)
7. No RCF/PMI may admit more residents than the number of beds for which it is licensed. (II, III)
8. There shall be a written, organized orientation program for all residents which shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the health care, recovery, and rehabilitation of the individual and which shall be available for review by the department. (III)
9. Infants and children under the age of 18 shall not be admitted to an RCF/PMI for adults unless given prior written approval by the department. A distinct part of an RCF/PMI, segregated from the adult section, may be established based on a résumé of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department’s review and approval. (III)

This rule is intended to implement Iowa Code sections 135C.3 and 135C.23.

481—62.11(135C) Evaluation services.

62.11(1) Each resident admitted shall have had a physical examination prior to admission and annually thereafter. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be part of the record in lieu of an additional physical examination. (II, III)
b. The record of the admission physical examination shall portray the current medical status of the resident and shall include the resident’s name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedure. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

62.11(2) Evaluation services shall be provided to each resident. An annual evaluation of each resident shall be completed no later than 12 months from the date of the last available evaluation. For residents who are on leave from a state mental health institution, the institution shall be responsible for the completion of the evaluation. The facility shall ensure the completion of the evaluation of all other residents. The annual evaluation shall identify physical health and current level of functioning and need for services. (II, III)

62.11(3) The portion of the evaluation to identify the resident’s physical health shall:

a. Result in identification of current illness and disabilities and recommendations for physical and physiological treatment and services. (II, III)

b. Include an evaluation of the resident’s ability for health maintenance. (III)

c. Be performed by a medical doctor or doctor of osteopathic medicine who holds a current license to practice medicine in the state of Iowa. If the evaluation is completed out of Iowa, it must be by a physician who holds a current license in the state in which the evaluation is performed. (II, III)

62.11(4) The portion of the evaluation to identify the resident’s current functioning level and need for services shall:

a. Identify the resident’s level of functioning and need for services in each of the following areas: self-care, community living skills, psychotherapeutic treatment, vocational skills, academic skills. (II, III)

b. Be of sufficient detail to determine the appropriateness of placement according to the skills and needs of the resident. (II, III)

c. Be made without regard to the availability of services. (III)

d. Be performed by a QMHP, in consultation with the interdisciplinary team. (II, III)

e. If an evaluation is available from the referral source, the evaluation shall be secured by the facility prior to the admission of the applicant. (III)

f. If an evaluation is not available, or does not contain all the required information, the facility shall ensure an evaluation to the extent necessary to determine if the applicant meets the criteria for admission. For those admitted, the remainder of the evaluation shall be performed prior to the development of an individual program plan. (III)

g. Results of all evaluations shall be in writing and maintained in the resident’s record. Evaluations subsequent to the initial evaluation shall be performed in sufficient detail to determine changes in the resident’s physical health, skills and need for services. (II, III)

62.11(5) A narrative social history shall be completed for each resident within 30 days of admission and approved by the qualified mental health professional prior to the development of the IPP. (III)

a. When the social history was secured from another provider, the information contained shall be reviewed within 30 days of admission. The date of the review, signature of the staff reviewing the history and a summary of significant changes in the information shall be entered in the resident’s record. (III)

b. An annual review of the information contained within the social history shall be incorporated into the individual program plan progress note. (III)

c. The social history shall minimally address the following areas:

1. Referral source and reason for admission, (II, III)

2. Legal status, (II, III)

3. A description of previous living arrangements, (III)

4. A description of previous services received and summary of current service involvements, (II, III)

5. A summary of significant medical conditions including, but not limited to, illnesses, hospitalizations, past and current drug therapies, and special diets, (II, III)

6. Substance abuse history, (II, III)

7. Work history, (III)
8. Educational history, (III)
9. Relationship with family, significant others, and other support systems, (III)
10. Cultural and ethnic background and religious affiliation, (II, III)
11. Hobbies and leisure time activities, (III)
12. Likes, dislikes, habits, and patterns of behavior, (II, III)
13. Impressions and recommendations.

This rule is intended to implement Iowa Code section 135C.14(7).

[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—62.12(135C) Programming.

62.12(1) Individual program plan. An individual program plan (IPP) for each resident shall be developed by an interdisciplinary team. Services to the resident shall be appropriate to address the short-term transitional or long-term residential needs of the resident. The resident or the resident’s legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by the court. The IPP shall be approved and implementation monitored by the QMHP. (II, III)
   a. The IPP shall be based on the individual service plan of the referring agency, if available, the information contained in the social history, the need for services identified in the evaluation, and any other pertinent information. (III)
   b. The facility shall assist the resident in obtaining access to academic, community living skills training, legal, self-care training, support, transportation, treatment, and vocational training services to the resident as needed. These services may be provided by the facility or obtained from other providers. (III)
   c. Services to the resident shall be provided in the least restrictive environment and shall incorporate the principle of normalization. (III)
   d. If needed services are not available and accessible, the facility shall document the actions which were taken to locate and access or deliver those services. The documentation shall include the identification of the type of needs which will not be met due to the lack of available services. (III)
   e. The IPP shall be developed within 30 days following admission to the facility and renewed at least annually. (II, III)
   f. The IPP shall be in writing, dated, signed by the interdisciplinary team members, and maintained in the resident’s record. (III)
   g. Written notice of the meeting to develop an IPP shall be sent to all persons to be included in the interdisciplinary team conference in advance of the scheduled meeting. (III)

62.12(2) The IPP shall include the following:
   1. Goals, (III)
   2. Objectives, (III)
   3. The specific service(s), including medication counseling, to be provided to achieve the objectives, the person(s) or agency(ies) responsible for providing the service(s), and the date of initiation and anticipated duration of service(s). (III)

62.12(3) The IPP shall state the evaluation procedure for determining if objectives are achieved which include the incorporation of a continuous process for review and revision. (III)

62.12(4) There shall be a review of the IPP by relevant staff, the resident, and appropriate others at least semiannually. (II, III)
   a. The review shall include the development of a written report which addresses the following: summary of the resident’s progress toward objectives; the need for continued services and any recommendation concerning alternative services or living arrangements; and any recommended change in guardianship or conservatorship status. The report shall reflect those involved in the review and the date of the review, and shall be maintained in the resident’s record. (II, III)
   b. The review shall be approved by the qualified mental health professional. (III)

62.12(5) There shall be procedures for recording the activities of each service provider toward assisting the resident in achieving the objectives in the IPP and the resident’s response which shall include a mechanism for coordination with all service providers. (III)
a. An entry into the resident’s record shall be made by staff whenever possible at the time of service provision but no later than seven days from service provision. (III)
b. Entries shall be dated and signed by the person providing the service. (III)
c. When the service includes ongoing activities occurring more than once a week, a summarized entry may be made weekly by staff in the resident’s record. (III)
d. Entries shall be written in terms of behavioral observations and specific activities. Entries that involve subjective interpretations of a resident’s behavior or progress shall be clearly identified and shall be supplemented with the behavioral observations which served as the basis of the interpretation. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.13(135C) Crisis intervention.

62.13(I) There shall be written policies and procedures concerning crisis intervention. (II) 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; (II, III)

b. Available in each program area and living unit; (II, III)

c. Available to individuals and their families; and (II, III)

d. Developed with the participation, as appropriate, of individuals served. (II, III)

62.13(2) Corporal punishment and verbal abuse (shouting, screaming, swearing, name-calling, or any other activity that would be damaging to an individual’s self-respect) are prohibited by written policy. (II)

62.13(3) Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program. Direct care staff shall monitor residents on medication and notify the physician if a resident is too sedated to participate in IPP. (I, II)

62.13(4) Residents shall not be subjected to mechanical restraint. (I, II)

62.13(5) There shall be written policies that define the uses of seclusion and physical restraints, designate the staff member(s) who may authorize its use, and establish a mechanism for monitoring and controlling its use. (I, II) Temporary physical restraint and temporary seclusion of residents shall be used only under the following conditions: (I, II)

a. An emergency to prevent injury to the resident or to others; or (I, II)

b. For crisis intervention but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or program; (I, II) and

c. Seclusion may only be used in an RCF/PMI if a variance is granted. When a seclusion room is used, it shall meet the standards set out in 481—subrule 61.5(12). (I, II)

62.13(6) The physician and QMHP shall be notified immediately of the resident’s need for placement in seclusion and a time-limited order for seclusion obtained from the physician. The order shall be for no more than one hour at a time. If the resident is placed in seclusion longer than one hour, the resident shall be visited and evaluated by the physician or qualified mental health professional before a continuation of the seclusion order can be obtained. If the evaluation is conducted by a QMHP, the physician shall be notified of the resident’s condition and the physician shall see the resident within 24 hours of each incident of seclusion and sign the seclusion order. (I, II)

62.13(7) If orders for seclusion remain in force for more than a total of 3 hours in a 24-hour period, the facility shall make arrangements for immediate transfer of the resident to a higher level of care. (I, II)

62.13(8) Standing or PRN orders for seclusion are prohibited. (I, II)

62.13(9) Written documentation of the above information shall be kept as a part of each resident’s record and the administrator shall be responsible for maintaining a daily record of seclusion usage which shall be kept available for review by the department. (II, III)

62.13(10) Written documentation shall be kept of each incident of seclusion to minimally include: (II)

a. Explanation of less restrictive measures implemented prior to use of seclusion, (I, II)

b. Record of visual observation of the resident every ten minutes or more frequently if needed, (I)
c. Description of the resident’s activity at the time of observation to include verbal exchange and behavior, (I, II)

d. Description of safety procedures taken (removal of dangerous objects, etc.), (I)

e. Record of vital signs including blood pressure, pulse and respiration unless contraindicated by resident behavior and reasons documented, (I, II)

f. Record of intake of food and fluid, (II, III)

g. Record of rest room use, (II, III)

h. Record of numbers of hours and minutes in seclusion. (II)

62.13(11) The facility shall provide training by qualified professionals to the staff on physical restraint and seclusion theory and techniques. (I)

a. The facility shall keep a record of above training for review by the department and shall include attendance. (II, III)

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. (I)

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

This rule is intended to implement Iowa Code section 135C.14.

481—62.14(135C) Discharge or transfer. Procedures for the discharge or transfer of the resident shall be established and followed: (II, III)

62.14(1) The decision to discharge a person and the plan for doing so shall be established through the participation of the resident, members of the interdisciplinary team and other resource personnel as appropriate for the welfare of the individual. (II, III)

a. Discharge planning shall begin within 30 days of admission and be carried out in accordance with the IPP. (II, III)

b. As changes occur in a resident’s physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, the resident shall be transferred promptly to another appropriate facility pursuant to 62.10(1) “a.” (I, II)

c. Notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

d. Proper arrangements shall be made for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

e. The licensee shall not refuse to discharge or transfer a resident when directed by the physician, resident, legal representative, or court. (II, III)

f. Advance notification by telephone shall be made to the receiving facility prior to the transfer of any resident. (III)

g. When a resident is transferred or discharged, the current evaluation and treatment plan and progress notes for the last 30 days, as set forth in these rules, shall accompany the resident. (II, III)

h. 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 sent. (II, III)

i. A discharge or transfer authorization and summary shall be prepared for each resident who has been discharged or transferred from the facility and shall be disseminated to appropriate persons to ensure continuity of care and in accordance with the requirements to ensure confidentiality. (II, III)

j. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer.

62.14(2) Intrafacility transfer. Residents shall not be moved from room to room within a health care facility arbitrarily. (I, II)

a. Involuntary relocation may occur only to implement goals and objectives in the IPP and in the following situations:

(1) Incompatibility with or behavior disturbing to roommates, as documented in the residents’ records; (I, II)
(2) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex; (II, III)

(3) Reasonable and necessary administrative decisions regarding the use and functioning of the building. (II, III)

b. Unreasonable and unjustified reasons for changing a resident’s room without the concurrence of the resident or legal guardian include:

(1) Punishment or behavior modification. (II)

(2) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph “a,” the resident shall be notified at least 48 hours prior to the transfer and the reason shall be explained. The legal guardian shall be notified as soon as possible. The notification shall be documented in the resident’s record and signed by the resident or legal guardian. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family and legal guardian shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation and the notification shall be documented. (II)

62.14(3) Involuntary discharge or transfer. Residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C which states that a resident shall be transferred or discharged only for the following:

a. Medical reasons which include:

(1) Acute stage of alcoholism, mental illness, or an active state of a communicable disease, (I, II) or

(2) Need for medical procedures as determined by a physician, or services which cannot be or are not being carried out in the facility. (I, II)

b. Resident’s welfare or welfare of other residents which includes a resident who is dangerous to the resident or other residents (I), or

c. Nonpayment except as prohibited by Medicaid. (II)

62.14(4) Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. (II) The 30-day requirement shall not apply in any of the following instances:

a. If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and written medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff. (I, II)

b. If the transfer or discharge is subsequently agreed to by the resident or by the resident’s legal guardian, and notification is given to the legal guardian, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. (II)

(1) The notice required by 62.14(4) shall contain all of the following information:

1. The stated reason for the proposed transfer or discharge. (II)

2. The effective date of the proposed transfer or discharge. (II)

3. The following statement must be included:

“You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as department) within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration date of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health
(II)

(2) A request for a hearing made under 62.14(4) ‘b’(1) shall stay a transfer or discharge pending a hearing or appeal decision. (II)

(3) The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, legal guardian, and Iowa department on aging long-term care resident’s advocate/ombudsman of record, not later than five full business days after receipt of the request. This notice shall also inform the licensee, resident, or legal guardian that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department on aging’s long-term care resident’s advocate/ombudsman shall have the right to appear at the hearing. (II)

(4) The hearing shall be heard by a department of inspections and appeals hearing officer pursuant to department rules. The licensee or designee shall have the opportunity to present oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and legal guardian shall also have an opportunity to present oral testimony or written material to show just cause why a transfer or discharge should not be made; the burden of proof rests on the party requesting the transfer or discharge. (II)

(5) Based upon all testimony and material submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by regular mail to the licensee, resident, responsible party, and department on aging long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision. (II)

(6) A copy of the notice required by 62.14(4) shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s legal guardian, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department on aging’s long-term care resident’s advocate/ombudsman. (II)

(7) If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

(8) The involuntary transfer or discharge shall be discussed with the resident, legal guardian, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and shall be made a part of the resident’s record. (II)

(9) The resident shall receive counseling services before (by sending facility) and after (by receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record. Counseling shall be provided by a qualified individual who meets one of the following criteria: (II)

1. Has a bachelor’s or master’s degree in social work from an accredited college. (II)
2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency. (II)
3. Has been employed in a social work capacity for a minimum of four years in a public or private agency. (II)
4. Is a licensed psychologist or psychiatrist. (II)
   (10) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be discharged or transferred. (II)
   (11) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)
   (12) In the case of an emergency transfer or discharge as outlined in 62.14(4) “a.” the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 62.14(4) “b.” (1) “1” and “2.” In addition, the notice must contain a statement in not less than 12-point type, which reads:
   "You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa department of inspections and appeals within seven days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.”
   A hearing requested pursuant to this subrule shall be held in accordance with 62.14(4) “b.” (3), (4) and (5). (II)
   (13) Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities. (II)
This rule is intended to implement Iowa Code sections 135C.14(8), 135C.31, 135C.43, and 135C.46.

481—62.15(135C) Medication management.

62.15(1) Medications shall be prescribed on an individual basis by one who is authorized by Iowa law to prescribe. (I, II)
   a. Medication orders shall be correctly implemented by qualified personnel. (II)
   b. Qualified staff shall ensure that residents are able to take their own medication. (I, II)
   c. Each physician order allowing a resident to take their own medications shall specify whether this self-medication shall be without supervision or under the supervision of qualified staff as defined in 62.15(2). (I, II)

62.15(2) Drug administration.
   a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.
   b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.
   c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.
   d. Prior to taking a department-approved medication aide course, the individual shall:
      (1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;
(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

   e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:
      (1) Complete a clinical or nursing theory course within six months before taking the challenge examination;
      (2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;
      (3) Provide to the community college a written statement from the nursing program’s pharmacology or clinical instructor indicating the individual is competent in medication administration.

   f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

   The requirements of paragraph “d” of this subrule do not apply to this individual.

   g. Unit dose medication shall remain in the identifiable unit dose package until given to the resident. (II)

   h. Medications that are not contained in unit dose packaging shall be set up and administered by the same person and must be administered within one hour of preparation. (II)

   i. The person administering medications must observe and check to make sure the resident swallows oral medications and must record the date, time, amount and name of each medication given. (II)

   j. Injectable medications shall be administered by a qualified nurse or physician.

   k. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to “j” above or as otherwise authorized by the resident’s physician. Authorization by the physician shall:
      (1) Be in writing,
      (2) Be maintained in the resident’s record,
      (3) Be renewed quarterly,
      (4) Include the name of the individual authorized to administer the insulin,
      (5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

   l. Current and accurate records must be kept on the receipt and disposition of all Schedule II drugs. (II, III)

62.15(3) For each resident who is taking medication with or without supervision there shall be documentation on the individual’s record to include:

   a. Name of resident, (II, III)
   b. Name of drug, dose, and schedule, (II, III)
   c. Method of administration, (II, III)
   d. Drug allergies and adverse reactions, (I, II)
   e. Special precautions, (I, II)
   f. Documentation of resident’s continuing ability to administer own medication. (I, II)

62.15(4) Medication counseling shall be provided for all residents in accordance with the IPP on an ongoing basis and as part of discharge planning unless contraindicated in writing by the physician with reasons and pursuant to 62.12(2) “c.” (II, III)

   Each resident shall be given verbal and written information about all medications the resident is currently using, including over-the-counter medications. A suggested reference is “USPDI, Advice for the Patient.” (II, III)

   The information shall include:
   a. Name, reason for, and amount of medication to be taken; (II)
b. Time medication is to be taken and the reason that schedule was established; (II)
c. Possible benefits, risks and side effects of each medication including over-the-counter medications; (II)
d. The names of people in the community qualified to answer questions about medications. (II, III)
e. A list of available resources or agencies which may assist the resident to obtain medication after discharge. (III)

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedrooms. Individual locked storage shall be utilized. (II, III)
b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:
   (1) Adequate size cabinet with lock which can be used for storage of drugs, solutions, and prescriptions. A locked drug cart may be used. (II, III)
   (2) A bathroom shall not be used for drug storage. (II, III)
   (3) The drug storage cabinet shall be kept locked when not in use. (II, III)
   (4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medication. (III)
   (5) Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box properly labeled, and separated from food and other items. (III)
   (6) Drugs for external use shall be stored separately from drugs for internal use. External medications are those to be applied to the outside of the body and include but are not limited to salves, ointments, gels, pastes, soaps, baths, and lotions. Internal medications are those to be applied inside the body or ingested and include but are not limited to oral and injectable medications, eye drops, ear drops and suppositories. Also, eye drops and ear drops shall be separated from each other as well as from other internal and external medications. (II, III)
   (7) All potent, poisonous, or caustic materials shall be stored in a separate room from the medications. (II, III)
   (8) Inspection of the condition of stored drugs shall be made by the administrator and a licensed pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but need not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current order, and drugs improperly stored. (III)
   (9) Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a seven-day supply and a missing dose can be readily detected but must be kept in a locked medication cabinet. Quantities in excess of a seven-day supply must be double-locked. (II)

c. Bulk supplies of prescription drugs shall not be kept. (III)

a. All labels on medications must be legible. If labels are not legible, the medication shall be sent back to the dispenser as defined in Iowa Code section 147.107 for relabeling. (II, III)
b. The medication for each resident shall be kept or stored in the original dispensed containers. (II, III)
c. The facility shall adopt policies and procedures for the destruction of unused prescription drugs for residents who have died. The policies and procedures shall include, but not be limited to, the following: (III)
   (1) Drugs shall be destroyed by the person in charge in the presence of the administrator or the administrator’s designee;
   (2) Notation of the destruction shall be made in the resident’s chart, with signatures of the persons involved in the destruction;
(3) The manner in which the drugs are disposed of shall be identified (i.e., incinerator, sewer, landfill). (II, III)

d. The facility shall also adopt policies and procedures for the disposal of controlled substances dispensed to residents whose administration has been discontinued by the prescriber. These policies and procedures shall include, but not be limited to, the following:
(1) Procedures for obtaining a release from the resident;
(2) The manner in which the drugs were destroyed and by whom, including witnesses to the destruction;
(3) Mechanisms for recording the destruction;
(4) Procedures to be used when the resident or the conservator or guardian refuses to grant permission for destruction. (II, III)

e. The facility shall adopt policies and procedures for the disposal of unused discontinued medication. The procedures shall include but not be limited to:
(1) A specified time after which medication must be destroyed, sent back to the dispencer or placed in long-term storage;
(2) Procedures for obtaining permission of the resident, or the conservator or guardian;
(3) Procedures to be used when the resident or conservator or guardian refuses to grant permission for disposal;
(4) Unused discontinued medication shall be locked and shall be separate from current medication. (II, III)

f. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The facility, in consultation with a physician or pharmacist serving the home, shall institute policies and provide procedures. These shall be provided to all prescribers and pharmacists serving the facility and conveniently located for personnel administering medications. (III)

g. Residents shall not keep any prescription medication in their possession unless the attending physician has certified in writing on the resident’s medical record that the resident is mentally and physically capable of doing so. Over-the-counter medications may be maintained provided they are in a locked container and pursuant to subrule 62.16(5). (I, II)

h. No prescription drugs shall be administered to a resident without a written order signed by a person qualified to prescribe the medication and renewed quarterly. (II)

i. Prescription drugs shall be reordered only with the permission of the attending prescriber. (II, III)

j. No medications prescribed for one resident may be administered to or allowed in the possession of another. (II)

k. Residents on prescribed medication may maintain over-the-counter medication pursuant to 62.15(6)“g” unless contraindicated by the physician. The facility shall request this information from the physician and document in the resident’s record. (II)

62.15(7) Each facility shall have policies and procedures established to govern the administration of prescribed medications to residents on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Non-child-resistant containers may be used. Each container may hold one medication. A label on each container shall indicate the date, the resident’s name, the facility, the medication, its strength, dose, and time of administration.

b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

c. Medication distributed as above may be issued only by facility personnel responsible for administering medication.

62.15(8) Each RCF/PMI that administers controlled substances shall obtain annually a registration issued by the board of pharmacy pursuant to Iowa Code section 124.302(1). (III)

This rule is intended to implement Iowa Code section 135C.14.
481—62.16(135C) Resident property.

62.16(1) The admission of a resident does not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident’s legal guardian. (II, III)

62.16(2) The admission of a resident shall not grant the RCF/PMI the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the resident’s safety and for safe and orderly management of the residential care facility as required by these rules and in accordance with the IPP. (III)

62.16(3) An RCF/PMI shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

62.16(4) Resident’s funds held by the RCF/PMI shall be in a trust account and kept separate from funds of the facility. (III)

62.16(5) No administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident or the resident’s property, unless the resident is related to the person acting as guardian within the third degree of consanguinity. (III)

62.16(6) If a facility is a county care facility and upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of that county care facility without fee. The administrator may establish either separate or common bank accounts for cash funds of these residents. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—62.17(135C) Financial affairs. Each resident who has not been assigned a guardian or conservator by the court may manage the resident’s personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

62.17(1) The facility shall maintain a written account of all the resident’s funds received by or deposited with the facility. (II)

a. An employee shall be designated in writing to be responsible for resident accounts. (II)

b. The facility shall keep on deposit personal funds over which the resident has control.

c. If the resident requests these funds, they shall be given to the resident with a receipt maintained by the facility and a copy to the resident. If a conservator or guardian has been appointed for the resident, the conservator or guardian shall designate the method of disbursing the resident’s funds. (II)

d. If the facility makes a financial transaction on a resident’s behalf, the resident or the resident’s legal guardian or conservator must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident’s financial or business record. (II)

e. A resident’s personal funds shall not be used without the written consent of the resident or the resident’s guardian. (II)

f. A resident’s personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident’s guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

62.17(2) Contracts. There shall be a written contract between the facility and each resident which meets the following requirements:

a. State the base rate or scale per day or per month, the services included, and the method of payment; (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate; (III)

c. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 62.17(2); (III)
d. State the method of payment of additional charges; (III)

e. Contain an explanation of the method of assessment of additional charges and an explanation of the method of periodic reassessment, if any, resulting in charging the additional charges; (III)

f. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

g. Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator. (III)

h. Include the total fee to be charged initially to the specific resident. (III)

i. State the conditions whereby the facility may make adjustments to its overall fees for residential care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

1. Written notification to the resident and responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of changes; (III)

2. Notification to the resident and payor when appropriate, of changes in additional charges based on a change in the resident’s condition. Notification must occur prior to the date the revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

3. State the terms of agreement in regard to refund of all advance payments, in the event of transfer, death, or voluntary or involuntary discharge. (III)

j. State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident’s legal representative.

1. The facility shall ask the resident or legal representative if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

2. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

k. State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

l. State the conditions of voluntary discharge or transfer; (III)

m. Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

62.17(3) Each party shall receive a copy of the signed contract. (III)

This rule is intended to implement Iowa Code sections 135C.24 and 135C.23(1).

481—62.18(135C) Records.

62.18(1) Resident record. The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. (II) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Physician’s name, telephone number, and address; (III)

e. Dentist’s name, telephone number, and address; (III)

f. Name, address and telephone number of next of kin or legal representative; (III)

g. Name, address and telephone number of the person to be notified in case of emergency; (III)

h. Funeral director, telephone number, and address; (III)

i. Pharmacy name, telephone number, and address; (III)

j. Results of evaluation pursuant to 62.11(135C); (III)
(III) a. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)

(III) b. Physician’s orders for medication and treatments shall be in writing and signed by the physician quarterly; diet orders shall be renewed yearly; (III)

(III) c. A notation of yearly or other visits to physician or other professionals, all consultation reports and progress notes; (III)

(III) d. Any change in the resident’s condition; (II, III)

(III) e. A notation describing the resident’s condition on admission, transfer, and discharge; (III)

(III) f. In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)

(III) g. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

(III) h. Disposition of personal property; (III)

(III) i. Copy of IPP pursuant to 62.12(1); (III)

(III) j. Progress notes pursuant to 62.12(4) and 62.12(5). (III)

62.18(2) Confidentiality of resident records. The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automatic data bank. The resident’s or the resident’s legal guardian’s written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the information being released, how the information is to be used, and the period of time for which the release is in effect. A third party, not requesting the release, shall witness the release of information form. (II)

(II) a. The facility shall limit access to any resident records to staff and consultants providing professional service 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. (II)

(II) b. Only those personnel concerned with financial affairs of the residents may have access to the financial information. This is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

(II) c. 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 QMHP determines the disclosure of the record or section is contraindicated in which case this information will be deleted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident’s record by the physician or qualified mental health professional in collaboration with the resident’s interdisciplinary team. (II)

62.18(3) Incident records.

(II, III) a. Each RCF/PMI shall maintain an incident record report and shall have available incident report forms. (II, III)

(II, III) b. The report of every incident shall be in detail on a printed incident report form. (II, III)

(III) c. The person in charge at the time of the incident shall oversee the preparation and sign the report. (III)

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

62.18(4) Retention of records.

(III) 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. (III)
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. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—62.19(135C) Health and safety.

62.19(1) Physician. Each resident shall have a designated licensed physician who may be called when needed. (III)

62.19(2) Emergency care. The facility shall have written policies and procedures for emergency medical or psychiatric care to include:

a. A written agreement with a hospital or psychiatric facility or documentation of attempt to obtain a written agreement for the timely admission of a resident who, in the opinion of the attending physician, requires inpatient services; (II, III)

b. Provisions consistent with Iowa Code chapter 229; (II, III)

c. Immediate notification by the person in charge to the physician or QMHP, as appropriate, of any accident, injury or adverse change in the resident’s condition. (I, II)

62.19(3) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

62.19(4) Infection control. Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

c. Dressings, soaks, or packs; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

   CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

62.19(5) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)
62.19(6) Dental services. Personnel shall assist residents to obtain regular and emergency dental services and provide necessary transportation. Dental services shall be performed only on the request of the resident or legal guardian. The resident’s physician shall be advised of the resident’s dental problems. (III)

62.19(7) Safe environment. The licensee of an RCF/PMI is responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II) The RCF/PMI shall meet the fire and safety rules and regulations as promulgated by the state fire marshal. (I, II)

62.19(8) Disaster. The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (II, III)
   a. The plan shall be posted. (II, III)
   b. Training shall be provided to ensure that all employees and residents are knowledgeable of the emergency plan. The training shall be documented. (II, III)
   c. Residents shall be permitted to smoke only in posted areas where proper facilities are provided. Smoking by residents considered to be careless shall be prohibited except under direct supervision and in accordance with the IPP. (II, III)

62.19(9) Safety precautions. The facility shall take reasonable measures to ensure the safety of residents and shall involve the residents in learning the safe handling of household supplies and equipment in accordance with the policies and procedures established by the facility. (II)
   a. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific locked, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)
   b. Residents shall have access to storage areas for cleaning and laundry supplies as appropriate to the activities being performed unless contraindicated in their IPP. (I, II)

62.19(10) Hazards. Entrances, exits, steps, and outside steps and walkways shall be kept free from ice, snow, and other hazards. (II, III)

62.19(11) Laundry. All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)
   a. Except for related activities, the laundry room shall not be used for other purposes. (III)
   b. Resident’s personal laundry shall be marked with an identification unless the resident is responsible for doing the resident’s own laundry as indicated in the individual program plan. (III)
   c. There shall be an adequate supply of clean, stain-free linens so that each resident shall have at least three washcloths, hand towels, and bath towels. (III)
   d. Each bed shall be provided with clean, stain-free, washable bedspreads and sufficient lightweight serviceable blankets. A complete change of bed linens shall be available for each bed. (III)

62.19(12) Supplies, equipment, and storage.
   a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines, newspapers, radio, television, bulletin boards, board game, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, and outdoor equipment. Supplies and equipment shall be appropriate to the chronological age of the residents. (III)
   b. Storage shall be provided for recreational equipment and supplies. (III)

This rule is intended to implement Iowa Code section 135C.14(1).

481—62.20(135C) Nutrition.

62.20(1) There shall be policies and procedures written and implemented for dietary staffing.
   a. The person responsible for planning menus and monitoring the kitchens in each facility shall have completed training, approved by the department, in sanitation and food preparation. (III)
   b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)
   c. There shall be written work schedules and time schedules covering each type of job in the food service department for facilities over 15 beds. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area. (III)
62.20(2) Nutrition and menu planning.
   a. Residents shall be encouraged to the maximum extent possible to participate in meal planning, shopping, and in preparing and serving the meal and cleaning up. The facility shall be responsible for helping residents become knowledgeable of what constitutes a nutritionally adequate diet. (III)
   b. Menus shall be planned and served to meet nutritional needs of residents in accordance with the physician’s diet orders which shall be renewed yearly. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) Other foods shall be included to meet energy requirements (calories) to add to the total nutrients and variety of meals. (III)
   c. At least three meals or their equivalent shall be made available to each resident daily, consistent with those times normally existing in the community. (II, III)
      (1) There shall be no more than a 14-hour span between the substantial evening meal and breakfast. (III)
      (2) To the extent medically possible, bedtime nourishments, containing a protein source, shall be offered routinely to all residents. Special nourishments shall be available when ordered by the physician. (II, III)
   d. Menus shall include a variety of foods prepared in various ways. The same menus shall not be repeated on the same day of the following week. (III)
   e. If modified diets are ordered by the physician, the person responsible for writing the menus shall have completed department-approved training in simple therapeutic diets and a copy of a modified diet manual approved by the department and written within the past five years shall be available in the facility. (II, III)
   f. Therapeutic diets shall be served accurately. (II)
   g. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)
   h. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)
   i. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

62.20(3) Dietary storage, food preparation, service.
   a. The use of foods from salvaged, damaged, or unlabeled containers is prohibited. (II, III)
   b. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (II, III)
   d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. (III)
   e. If family-style service is used, all leftover prepared food that has been on the table shall be safely handled. (III)
   f. Poisonous compounds shall not be kept in food storage or preparation areas except for a sanitizing agent which shall be kept in a locked cabinet. (II, III)

62.20(4) Sanitation in food preparation area.
   a. The facility shall develop and implement policies and procedures to address sanitation, meal preparation and service in accordance with recommendations in the food service sanitation manual pursuant to 62.20(2) “c,” and which shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with the department’s food service and sanitation rules. (III)
b. Residents shall be allowed in the food preparation area in accordance with their IPP. (III)
c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)
d. All appliances and work areas shall be kept clean and sanitized. (III)
e. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds and a schedule of duties to be performed daily shall be posted in each food area. (III)
f. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff in facilities over 15 beds. (III)
g. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)
h. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

62.20(5) Hygiene of food service personnel.

a. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. (II, III)
b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area in facilities over 15 beds. (III)
c. Hairnets shall be worn by all food service personnel in facilities over 15 beds and effective hair restraints in facilities less than 15 beds. (III)
d. Persons handling food shall use correct hand-washing and food-handling techniques as identified in the food service sanitation manual. (III)
e. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.21(135C) Physical facilities and maintenance.

62.21(1) Housekeeping. The facility shall have written procedures for daily and weekly cleaning (III) to include but need not be limited to:

a. All rooms including furnishings, all corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment or accumulations of refuse. (III)
b. All resident bedrooms, including furnishings, shall be cleaned and sanitized before use by another resident. (III)
c. Polishes used on floors shall provide a slip-resistant finish. (III)

62.21(2) Equipment. Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

a. All facilities shall be provided with clean and sanitary storage for cleaning equipment, supplies, and utensils. In facilities over 15 beds a janitor’s closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor’s sink for emptying scrub pails. A hallway or corridor shall not be used for storage of equipment. (III)
b. Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)
c. All containers for trash shall be watertight, rodent-proof, and have tight-fitting covers and shall be thoroughly cleaned each time a container is emptied. (III)
d. All wastes shall be properly disposed of in compliance with the local ordinances and state codes. (III)

62.21(3) Bedrooms.

a. Each resident shall be provided with a bed, substantially constructed and in good repair. Roll-away beds, metal cots, or folding beds are not acceptable. (III)
b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately 5 inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)
c. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident’s personal wishes shall be considered and documented. (III)
d. There shall be drawer space for each resident’s clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)
e. There shall be a bedside table with a drawer and a reading lamp for each resident.
f. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)
g. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere and in a manner which is age and culture appropriate. (III)
h. Upholstery materials shall be moisture- and soil-resistant, except on furniture which is provided by the resident and is the property of the resident. (III)
i. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
j. Beds shall not be placed with the side of the bed against a radiator or in close proximity to it unless the radiator is covered to protect the resident from contact with it or from excessive heat. (III)

62.21(4) Bath and toilet facilities. All lavatories shall have nonreusable towels and an available supply of soap. (III)

62.21(5) Dining and living rooms.
  a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)
  b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)
  c. Dining rooms and living rooms shall be available for use by residents at appropriate times to allow social, diversional, individual, and group activities. (III)
  d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 481—subrule 60.6(2) are met. (III)
  e. Living rooms shall be suitably furnished and maintained for the use of residents and their visitors and may be used for recreational activities. (III)
  f. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

62.21(6) Family and employee accommodations.
  a. The residents’ bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)
  b. In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower is the minimum requirement. (III)
  c. In all health care facilities, if the family or employees live within the facility, living quarters shall be required for the family or employees separate from areas provided for residents. (III)

62.21(7) Animals. Animals shall be allowed within the facility with written approval of the department and under controlled conditions. (III)

62.21(8) Maintenance. Each facility shall establish a maintenance program to ensure continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be in writing and be available for review by the department. (III)
  a. The buildings, furnishing, and grounds shall be maintained in a clean, orderly condition and be in good repair. (III)
  b. The buildings and grounds shall be kept free of flies, other insects, rodents, and their breeding areas. (III)

62.21(9) Buildings, furnishings, and equipment.
  a. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per employee on duty from 6 p.m. to 6 a.m. (III)
  b. All windows shall be supplied with curtains and shades or drapes which are kept in good repair. (III)
  c. Wherever glass sliding doors or transparent panels are used, they shall be marked conspicuously and decoratively. (III)
62.21(10) Water supply. Every facility shall have an adequate water supply from an approved source. A municipal source of water shall be considered as meeting this requirement. (III) Private sources of water to a facility shall be tested annually and the report submitted with the annual application for license. (III)
   a. A bacterially unsafe source of water shall be grounds for denial, suspension, or revocation of license. (III)
   b. The department may require testing of private sources of water to a facility at its discretion in addition to the annual test. The facility shall supply reports of tests as directed by the department. (III)
   This rule is intended to implement Iowa Code section 135C.14.

481—62.22(135C) Care review committee. Each facility shall have a care review committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for care review committees promulgated by the department on aging. (II)
   62.22(1) Role of committee in complaint investigations.
      a. The department shall notify the facility’s care review committee of a complaint from the public. The department shall not disclose the name of a complainant.
      b. The department may refer complaints to the care review committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department on aging. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation of the investigation.
      c. When the department investigates a complaint, upon conclusion of its investigation, it shall notify the care review committee and the department on aging of its findings, including any citations and fines issued.
      d. Results of all complaint investigations addressed by the care review committee shall be forwarded to the department within ten days of completion of the investigation.
   62.22(2) The care review committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.
   62.22(3) When requested, names, addresses and telephone numbers of family members shall be given to the care review committee, unless the family refuses. The facility shall provide a form on which a family member may refuse to have the member’s name, address or telephone number given to the care review committee.
   This rule is intended to implement Iowa Code section 135C.25.

481—62.23(135C) Residents’ rights in general.
   62.23(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (62.23(2) to 62.23(22)) and which govern all areas of service provided to staff, residents, their families or legal representatives and shall be available to the public and shall be reviewed annually. (II)
   62.23(2) Grievances. Written policies and procedures shall include a method for submitting grievances and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. The written procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:
      a. An employee or an alternate designated to be responsible for handling grievances and recommendations; (II) and
      b. Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action. (II)
   62.23(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, or in the case of residents already in the facility, upon the facility’s adoption or amendment of residents’ rights policies and be posted in locations accessible to all residents. (II)
a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from residents. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Resident’s rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

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. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or legal guardian. (II)

d. All residents, next of kin, or legal guardian shall be advised within 30 days following changes made in the statement of residents’ rights and responsibilities. Appropriate means shall be used to inform non-English-speaking, deaf or blind residents of changes. (II)

62.23(4) Informed of health condition. Each resident or legal guardian shall be fully informed by a physician of the resident’s health and medical condition unless medically contraindicated as documented by a physician in the resident’s record. (II)

62.23(5) Research. The resident or legal guardian shall make the decision as whether to participate in experimental research and then only upon written informed consent. (II, III)

Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirement of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). (III)

62.23(6) Resident work. Services performed by the resident for the facility shall be in accordance with the IPP. (II)

a. Residents shall not be used to provide a source of labor for the facility against the resident’s will. Physician’s approval is required for all work programs and must be renewed yearly. (II, III)

b. If the individual program plan requires activities for therapeutic or training reasons, the plan for these activities must be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

c. A resident engaged in work programs in the RCF/PMI shall be paid wages commensurate with wage and hour regulations for comparable work and productivity. (II)

d. The resident shall have the right to employment options commensurate with training and skills. (II)

62.23(7) Residents performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

62.23(8) Encouragement to exercise rights. Each resident shall be encouraged and assisted throughout the resident’s period of stay, to exercise resident and citizen rights and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident’s choice, free from interference, coercion, discrimination, or reprisal. (II)

62.23(9) Posting of names. The facility shall post in a prominent area the name, telephone number, and address of the long-term care resident’s advocate/ombudsman, survey agency, local law enforcement agency, care review committee members, Iowa Protection and Advocacy Services, Inc., and text of Iowa Code section 135C.46, to provide to residents another course of redress. (II)

62.23(10) 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. (II)
a. 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. (II)

b. Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents’ individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating, and times to retire at night and arise in the morning shall be elicited and considered by the facility. The facility shall make every effort to match nonsmokers with other nonsmokers. (II)

c. 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. (II)

d. Privacy for each person shall be maintained when residents are being taken to the toilet or being bathed and while they are being helped with other types of personal hygiene, except as needed for resident safety or assistance. (II)

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. (II)

62.23(11) 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 IPP which has explicit approval of the resident or legal guardian. (II)

62.23(12) 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. (II)

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). (II)

2. The visit would not be in accordance with the IPP. (II)

3. The visitor’s behavior is unreasonably disruptive to the functioning of the facility.

Reasons for denial of visitation shall be documented in the resident’s records. (II)

b. Decisions to restrict a visitor are reevaluated at least quarterly by the QMHP or at the resident’s request. (II)

62.23(13) Privacy. Space shall be provided for residents to receive visitors in comfort and privacy. (II)

62.23(14) Telephone calls. Telephones consistent with ANSI standards 42 CFR 405.1134(c) (10-1-86) 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. (II)

62.23(15) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

62.23(16) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, QMHP, or facility administrator for refusing permission. (II)

62.23(17) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules; however, residents shall be encouraged to participate in recreational programs. (II)

62.23(18) Resident activities. Each resident may participate in activities of social, religious, and community groups as desired unless contraindicated for reasons documented by the attending physician or qualified mental health professional, as appropriate, in the resident’s record. (II)

Residents who wish to meet with or participate in activities of social, religious or community groups in or outside the facility shall be informed, encouraged, and assisted to do so. (II)

62.23(19) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided use is not otherwise prohibited in these rules. (II)
a. Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a secure location which is convenient to the resident. (II)

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. (II)

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 they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

d. A resident’s personal property shall not be used without the written consent of the resident or the resident’s guardian. (II)

e. A resident’s personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident’s guardian. The department may report findings that a resident’s property has been used without written consent to the local law enforcement agency, as appropriate. (II)

62.23(20) Sharing rooms. Residents, including spouses staying in the same facility, shall be permitted to share a room, if available, if requested by both parties, unless contraindicated in the IPP and when the reasons for denial are documented in the resident’s record. (II)

62.23(21) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy. The facility may require the pharmacy selected to use a drug distribution system compatible with the system currently used by the facility. (II)

62.23(22) Incompetent residents.

a. Each facility shall provide that all rights and responsibilities of the resident devolve to the resident’s legal guardian when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This paragraph is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

b. The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the legal guardian, if any, and acquire a statement indicating an understanding of resident’s rights. (II)

62.23(23) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from physical, sexual, mental and verbal abuse, exploitation, and physical injury. (I, II)

62.23(24) Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain the separation until the abuse investigation is completed. (I, II)

62.23(25) Pursuant to Iowa Code chapter 235B, a mandatory reporter of dependent adult abuse is any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse. This includes a member of the staff or employee of a health care facility. (II, III)

If a staff member or employee is required to report pursuant to this subrule, the staff member or employee shall immediately notify the person in charge of the facility or the person’s designated agent, and the person in charge or the designated agent shall make the report to the department of human services. (II, III)

This rule is intended to implement Iowa Code sections 135C.14(8) and 135C.24.

481—62.24(135C) County care facilities. In addition to Chapter 62 licensing rules, county care facilities licensed as residential care facilities for persons with mental illness must also comply with
department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a class II violation pursuant to 481—56.2(135C).

This rule is intended to implement Iowa Code section 227.4.

481—62.25(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)

62.25(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;
b. Compatibility of the proposed business or activity with the facility program;
c. Noise created by the proposed business or activity;
d. Odors created by the proposed business or activity;
e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
g. Proposed staffing for the business or activity;
h. Sharing of services and staff between the proposed business or activity and the facility;
i. Facility layout and design; and
j. Parking area utilized by the business or activity.

62.25(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

62.25(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

This rule will become effective July 1, 1992.

481—62.26(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

62.26(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

62.26(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

62.26(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.
62.26(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 135C.2(6), 135C.4, 135C.6(1) to 135C.6(3), 135C.7, 135C.8, 135C.14, 135C.16(2), 135C.23 to 135C.25, 135C.31, 135C.36, and 227.4.

[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
[Filed 4/14/89, Notice 2/8/89—published 5/3/89, effective 6/7/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 1/15/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
CHAPTER 63
RESIDENTIAL CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED
[Prior to 7/15/87, Health Department[470] Ch 63]

481—63.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicate those standards are mandatory. The use of the words “should” and “could” indicate those standards are recommended.

63.1(1) “Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

63.1(2) “Administrator” means a person who administers, manages, supervises, and is in general administrative charge of a residential care facility for the intellectually disabled, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

63.1(3) “Alcoholic” means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

63.1(4) “Ambulatory” means a person who immediately and without aid of another, is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

63.1(5) “Basement” means that part of a building where the finish floor is more than 30 inches below the finish grade.

63.1(6) “Board” means the regular provision of meals.

63.1(7) “Communicable disease” means a disease caused by the presence of virus or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

63.1(8) “Department” means the state department of inspections and appeals.

63.1(9) “Distinct part” means a clearly identifiable area or section within a residential care facility for the intellectually disabled, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

63.1(10) “Drug addiction” means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

63.1(11) “Interdisciplinary team” means persons drawn from, or representing such of the professions, disciplines, or services required for the care of the resident.

63.1(12) “Medication” means any drug including over-the-counter substances ordered and administered under the direction of the physician.

63.1(13) “Nonambulatory” means a person who immediately and without the aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

63.1(14) “Personal care” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

63.1(15) “Program of care” means all services being provided for a resident in a health care facility.

63.1(16) “Qualified intellectual disabilities professional” means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year’s experience working with the intellectually disabled.

63.1(17) “Rate” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these regulations.

63.1(18) “Responsible party” means the person who signs or cosigns the admission agreement required in 481—63.14(135C) or the resident’s guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the
resident’s admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of social services, Veterans Administration, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

63.1(19) “Restraints” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility for the intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

63.2(1) To request a variance, the licensee must:
   a. Apply for variance in writing, on a form provided by the department;
   b. Cite the rule or rules from which a variance is desired;
   c. State why compliance with the rule or rules cannot be accomplished;
   d. Explain alternate arrangement or compensating circumstances which justify the variance;
   e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

63.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:
   a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
   b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
   c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
   d. Consult with the applicant if additional information is required.

63.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.3(135C) Application for licensure.

63.3(1) Initial application and licensing. In order to obtain an initial residential care facility for the intellectually disabled license for a residential care facility for the intellectually disabled which is currently licensed, the applicant must:
   a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63;
   b. Submit a letter of intent and a written résumé of the resident care program and other services provided which reflect the services indicated in individualized programs of care for each resident for departmental review and approval;
   c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;
   d. 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, and designation of the use to which each room will be put and window and door location;
   e. Submit a photograph of the front and side elevation of the facility;
   f. Submit the statutory fee for a residential care facility for the intellectually disabled for which licensure application is made;
   g. Comply with all other local statutes and ordinances in existence at the time of licensure;
   h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.
63.3(2) In order for a facility not currently licensed as a residential care facility for the intellectually disabled to obtain an initial license as a residential care facility for the intellectually disabled, the applicant must:
   a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63 (exceptions noted in 60.3(2) shall not apply);
   b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;
   c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;
   d. Submit a floor plan of each floor of the residential care facility for the intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the room will be put and window and door locations;
   e. Submit a photograph of the front and side elevation of the residential care facility for the intellectually disabled;
   f. Submit the statutory fee for a residential care facility for the intellectually disabled;
   g. Comply with all other local statutes and ordinances in existence at the time of licensure;
   h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(3) Renewal application. In order to obtain a renewal of the residential care facility for the intellectually disabled license, the applicant must:
   a. Submit the completed application form 30 days prior to annual license renewal date of residential care facility for the intellectually disabled license;
   b. Submit the statutory license fee for a residential care facility for the intellectually disabled with the application for renewal;
   c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;
   d. Submit appropriate changes in the résumé to reflect any changes in the resident care program and other services.

63.3(4) Deemed status.
   a. The department shall recognize, in lieu of its own inspection, the comparable inspection and inspection findings of the Accreditation Council for Service for Mentally Retarded and Other Developmentally Disabled Persons (AC—MR/DD), if the department is given copies of all requested materials relating to the comparable inspection process, is notified of the scheduled comparable inspection not less than 30 days in advance of the inspection, and is given the opportunity to monitor the comparable inspection. The department may verify the findings of 10 percent of the comparable inspections, selected annually on a random basis, in order to ensure compliance with minimum residential care standards established pursuant to this chapter.
   b. The above accreditation will be accepted in lieu of the department’s yearly licensure inspection for each year of the AC—MR/DD accreditation period up to two years.

63.3(5) Licenses are issued to the person or governmental unit which has 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.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.9.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.4(135C) General requirements.

63.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

63.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.
63.4(3) The posted license shall accurately reflect the current status of the residential care facility for the intellectually disabled. (III)

63.4(4) Licenses expire one year after the date of issuance, or as indicated on the license.

63.4(5) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.5(135C) Notifications required by the department. The department shall be notified:

63.5(1) Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

63.5(2) Of any proposed change in the residential care facility for the intellectually disabled’s functional operation or addition or deletion of required services; (III)

63.5(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility for the intellectually disabled, or on the premises; (III)

63.5(4) Thirty days in advance of closure of the residential care facility for the intellectually disabled; (III)

63.5(5) Within two weeks of any change in administrator; (III)

63.5(6) When any change in the category of license is sought; (III)

63.5(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the licensee shall:

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

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

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s residential care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—63.7(135C) Licenses for distinct parts.

63.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

63.7(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 them within that part; (III)

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;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.
481—63.8(135C) Administrator. Each residential care facility for the intellectually disabled shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

63.8(1) The administrator shall be at least 18 years of age and shall have a high school diploma or equivalent. (III) In addition this person shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator who is also a qualified intellectual disabilities professional; (III) or

b. Be a qualified intellectual disabilities professional with at least one year of experience in an administrative capacity in a health care facility; (III) or

c. Have completed a one-year educational training program approved by the department for residential care facility for the intellectually disabled. (III)

63.8(2) The administrator may act as an administrator for not more than two residential care facilities for the intellectually disabled. (II)

a. The distance between the two facilities shall be no greater than 50 miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

63.8(3) The licensee may be the approved administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

63.8(4) A provisional administrator may be appointed on a temporary basis by the residential care facility for the intellectually disabled licensee to assume the administrative responsibilities for a residential care facility for the intellectually disabled for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace the administrator, provided the department has been notified prior to the date of the administrator’s appointment. (III)

63.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least 18 years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator’s absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

63.8(6) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility for the intellectually disabled; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the residential care facility for the intellectually disabled. (III)

63.8(7) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)

c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
481—63.9(135C) General policies.

63.9(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

63.9(2) There shall be a written job description developed for each category of worker in facilities. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

63.9(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

a. Employees shall have a physical examination before employment. (I, II, III)
b. Employees shall have a physical examination at least every four years. (I, II, III)
c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

63.9(4) Health certificates for all employees shall be available for review. (III)


63.9(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

63.9(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

63.9(8) The residential care facility for the intellectually disabled shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

63.9(9) Each facility licensed as a residential care facility for the intellectually disabled shall provide an organized continuous 24-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

63.9(10) Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)
b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
c. Dressings, soaks, or packs; (I, II, III)
d. Infection identification; (I, II, III)
e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)
f. Sanitation techniques for resident care equipment; (I, II, III)
g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)
h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).
63.9(11) Aseptic techniques. If a resident needs any of the treatments or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.
   a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)
   b. Urinary catheter, (I, II, III)
   c. Respiratory suction, oxygen or humidification, (I, II, III)
   d. Decubitus care, (I, II, III)
   e. Tracheostomy, (I, II, III)
   f. Nasogastric or gastrostomy tubes, (I, II, III)
   g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

63.9(12) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.10 Rescinded, effective 7/14/82.

481—63.11(135C) Personnel.

63.11(1) General qualifications.
   a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility for the intellectually disabled. (II)
   b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility for the intellectually disabled. (II)
   c. 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, (I, II, III)
      (2) Which presents a significant risk of infecting others, (I, II, III)
      (3) Which presents a substantial possibility of harming others, and (I, II, III)
      (4) For which no reasonable accommodation can eliminate the risk. (I, II, III)
   Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).
   d. Reserved.
   e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual’s ability to perform the duties of the job. (III)

63.11(2) Supervision and staffing.
   a. The department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility for the intellectually disabled, using as its criteria the services being offered as indicated on the résumé program of care and, as required for individual care plans, the needs of the resident. (II, III)
   b. Personnel in a residential care facility for the intellectually disabled shall provide 24-hour coverage for residential care services for the intellectually disabled. Personnel shall be up and dressed at all times in facilities with more than 15 beds. In facilities with 15 or fewer beds, personnel shall be up and dressed when residents are awake. (II, III)
   c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II, III)
   d. Physician’s orders shall be implemented by qualified personnel. (II, III)

63.11(3) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse
checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—63.12(135C) Resident care and personal services.

63.12(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

63.12(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

63.12(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

63.12(4) Rescinded, effective 7/14/82.

63.12(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

63.12(6) Residents shall not be required to pass through another’s bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

63.12(7) Rescinded, effective 7/14/82.

63.12(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

63.12(9) Residents shall be required to bathe at least twice a week. (II, III)

481—63.13(135C) Admission, transfer, and discharge.

63.13(1) General admission policies.

a. No resident who is in need of greater services than the facility can provide shall be admitted or retained in a residential care facility for the intellectually disabled. (II, III)

b. No residential care facility for the intellectually disabled shall admit more residents than the number of beds for which it is licensed. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a residential care facility for the intellectually disabled shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident’s legal representative. (III)

f. The admission of a resident shall not grant the residential care facility for the intellectually disabled the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the residential care facility for the intellectually disabled as required by these rules. (III)

g. A residential care facility for the intellectually disabled shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the residential care facility for the intellectually disabled, belonging to or due a resident, expendable for the resident’s account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department’s review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident’s property, unless such resident is related to the person acting as guardian within the third degree of consanguinity. (III)
l. Upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of such county care facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards. (III)

63.13(2) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the residential care facility for the intellectually disabled 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. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such transfer or discharge. (II, III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 63.17(1) of these rules will accompany the resident. (II, III)

f. 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 sent. (II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.14(135C) Contracts. Each party shall receive a copy of the signed contract. Each contract for residents shall:

63.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

63.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 63.14(2); (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

63.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on a predreadmission evaluation assessment which is determined in consultation with the administrator; (III)

63.14(4) Include the total fee to be charged initially to the resident; (III)

63.14(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident or responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident or responsible party, when appropriate, of changes in additional charges, based on a change in the resident’s condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

63.14(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)
63.14(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident’s responsible party:

a. The facility shall ask the resident or responsible party if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented; (II)

b. The facility shall reserve the bed when requested for as long as the resident can ensure payment in accordance with the contract; (II)

63.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

63.14(9) State the conditions of voluntary discharge or transfer; (III)

63.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

481—63.15(135C) Physical examinations.

63.15(1) Each resident in a residential care facility for the intellectually disabled shall have a designated licensed physician, who may be called when needed. (III)

63.15(2) Each resident admitted to a residential care facility for the intellectually disabled shall have had a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident’s record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident’s name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

63.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

63.15(4) Rescinded, effective 7/14/82.

63.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident’s condition. (I, II, III)

63.15(6) Each resident shall be visited by or shall visit the resident’s physician at least annually. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the intellectually disabled may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

63.15(7) Residents shall be admitted to a residential care facility for the intellectually disabled only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

This rule is intended to implement Iowa Code section 135C.23(2).

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.16(135C) Dental services.

63.16(1) The residential care facility for the intellectually disabled personnel shall assist residents to obtain regular and emergency dental services. (III)

63.16(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist’s office. (III)

63.16(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident’s physician shall be advised of the resident’s dental problems. (III)
63.16(4) All dental reports or progress notes shall be included in the clinical record. (III)
63.16(5) Personal care staff shall assist the resident in carrying out dentist’s recommendations. (III)
63.16(6) Dentists shall be asked to participate in the in-service program of the facility. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.17(135C) Records.

63.17(1) Resident record. The licensee shall keep a permanent record on all residents admitted to a residential care facility for the intellectually disabled with all entries current, dated, and signed. (III)

The record shall include:

a. Name and previous address of resident; (III)
b. Birth date, sex, and marital status of resident; (III)
c. Church affiliation; (III)
d. Physician’s name, telephone number, and address; (III)
e. Dentist’s name, telephone number, and address; (III)
f. Name, address, and telephone number of next of kin or legal representative; (III)
g. Name, address, and telephone number of person to be notified in case of emergency; (III)
h. Mortician’s name, telephone number, and address; (III)
i. Pharmacist’s name, telephone number, and address; (III)
j. Physical examination and medical history; (III)
k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
l. Physician’s orders for medication, treatment, and diet in writing and signed by the physician; (III)
m. A notation of yearly or other visits to physician or other professional services; (III)
n. Any change in the resident’s condition; (II, III)
o. If the physician has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medication, treatments, and diet prescribed by the physician for each resident; (III)
p. If the physician has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)
q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)
r. A notation describing condition on admission, transfer, and discharge; (III)
s. In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)
t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
u. Disposition of valuables. (III)
63.17(2) Incident record.
a. Each residential care facility for the intellectually disabled shall maintain an incident record report and shall have available incident report forms. (III)
b. Report of incidents shall be in detail on a printed incident report form. (III)
c. The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)
d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)
e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

63.17(3) Retention of records.

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. 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. (III)

63.17(4) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.17(5) Personnel record.

a. An employment record shall be kept for each employee consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.18(135C) Drugs.

63.18(1) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom but locked storage must be provided. (III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

1. A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)

2. A bathroom shall not be used for drug storage; (III)

3. The drug storage cabinet shall be kept locked; (III)

4. Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked medication cabinet; (II)

5. The medicine cabinet key shall be in the possession of the employee charged with the responsibility of administering medications; (II, III)

6. Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)

7. Drugs for external use shall be stored separately from drugs for internal use; (III)

8. All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I, II)

9. The drug cabinet shall have a work counter, both the counter and cabinet shall be well-lighted; (III)

10. Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)

11. Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. Bulk supplies of prescription drugs shall not be kept in a residential care facility for the intellectually disabled unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)
63.18(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident’s full name, physician’s name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident’s full name, physician’s name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident’s record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

i. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident’s current medications. Discontinued drugs shall be destroyed by the responsible person with a witness and notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to keep in the resident’s possession any medications unless the attending physician has certified in writing on the resident’s medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

m. Each facility shall establish a policy cooperating with a licensed pharmacist to govern distributing prescribed medication to residents who are on leave from a facility. (III)

(1) Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 63.18(2)”a,” non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident’s name, the facility, the medication, its strength, dose, and time of administration.

(2) Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

(3) Medication distributed as above may be issued only by facility personnel responsible for administering medication.

63.18(3) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.
b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.
c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.
d. Prior to taking a department-approved medication aide course, the individual shall:
   (1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;
   (2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.
   (3) Have a letter of recommendation for admission to the medication aide course from the employing facility.
e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:
      (1) Complete a clinical or nursing theory course within six months before taking the challenge examination;
      (2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;
      (3) Provide to the community college a written statement from the nursing program’s pharmacology or clinical instructor indicating the individual is competent in medication administration.
f. In an RCF/ID facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.
g. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.
The requirements of paragraph “d” of this subrule do not apply to this individual.
h. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day they are administered, (II) unless the unit dose system is used.
i. Injectable medications shall be administered by a qualified nurse or physician.
j. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to “i” above or as otherwise authorized by the resident’s physician. Authorization by the physician shall:
   (1) Be in writing,
   (2) Be maintained in the resident’s record,
   (3) Be renewed quarterly,
   (4) Include the name of the individual authorized to administer the insulin,
   (5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.
k. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.19(135C) Dietary.
63.19(1) Dietary staffing.
   a. In facilities licensed for over 15 beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)
b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over 15 beds. (III)

63.19(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician’s orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the food and nutrition board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

1. Milk—two or more cups served as beverage or used in cooking;

2. Meat group—two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

3. Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

4. Bread and cereal group—four or more servings of whole-grain, enriched or restored;

5. Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

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

(II, III)

2. To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (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 service 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 departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

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

63.19(3) Dietary storage, food preparation, and service.

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II, III)

b. The use of food from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

d. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and or perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II, III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)

g. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)
63.19(4) Sanitation in food preparation area.
   b. Residents shall not be allowed in the food preparation area, unless indicated in their individualized care plans. (III)
   c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)
   d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II, III)
   e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II, III)
   f. All appliances and work areas shall be kept clean. (III)
   g. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds. (III)
   h. A schedule for duties to be performed daily shall be posted in each food area. (III)
   i. All cooking stoves in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)
   j. Spillage and breakage shall be cleaned up immediately. (III)
   k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)
   l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)
   m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)
   n. There shall be no washing, ironing, sorting, or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)
   o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)
   p. There shall be no animals or birds in the food preparation area. (III)
   q. No dishes or cooking utensils shall be towel dried. (III)
   r. In facilities of over 15 beds directions for the dishwashing procedure shall be posted and available to all kitchen personnel. (III)
   s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (70°C) to 180°F (82°C). (III)
   t. The washing and sanitizing of dishes and utensils shall meet approved sanitation procedures and practices. In facilities of 15 or more beds, a mechanical dishwashing machine or three-compartment sink shall be used for washing dishes; a booster heater for the third compartment or sanitizing agent shall be used. (III)
   u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)
   v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)
   w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

63.19(5) Hygiene of food service personnel.
   a. Food service personnel shall be free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their
physician showing freedom from infection before returning to work in the food service department. (II, III)

b. Staff employees who are full-time food service personnel shall wear clean, washable uniforms that are not used for duties outside the food service area. In all facilities, employees shall wear clean, washable clothing when in the food service area. (III)
c. Hairnets shall be worn by all staff food service personnel. Total enclosure of facial hair shall be provided for staff personnel. (III)
d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)
e. Persons handling food shall be knowledgeable of good hand-washing techniques. A hand-wash sink shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)
f. The use of tobacco shall be prohibited in the kitchen. (III)
63.19(6) Food and drink. All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II, III)

481—63.20(135C) Orientation program.

63.20(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)
63.20(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

481—63.21(135C) Individualized program of care.

63.21(1) The individualized program of care, including specific goals and regular evaluation of progress, shall incorporate the social services, psychological, educational activities, and medical needs of the residents, and shall be designed by an interdisciplinary team. (II)
63.21(2) Each residential care facility for the intellectually disabled shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)
a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident’s physician. This shall include helping residents continue in their individual interests or hobbies. (III)
b. The program shall include individual goals for each resident. (III)
c. The activity program shall include both group and individual activities. (III)
d. Residents shall be encouraged, but not forced, to participate in the activity program. (III)
63.21(3) Coordination of activities program.
a. Each residential care facility for the intellectually disabled with over 15 beds shall employ a person to direct the activities program. (III)
b. Staffing for the activity program shall be provided on the minimum basis of 45 minutes per licensed bed per week. (II, III)
c. The activity coordinator shall have completed the activity coordinators’ orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)
d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)
e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)
63.21(4) Duties of activity coordinator. The activity coordinator shall:
a. Have access to all residents’ records excluding financial records; (III)
b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)
c. Keep all necessary records including:
   (1) Attendance; (III)
   (2) Individual resident progress notes recorded at regular intervals (at least every three months).
   (III)
   (3) Monthly calendars, prepared in advance. (III)
   d. Coordinate the activity program with all other services in the facility; (III)
   e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

63.21(5) Supplies, equipment, and storage.
   a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.
   b. Storage shall be provided for recreational equipment and supplies. (III)
   c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

1 Emergency, pursuant to Iowa Code section 17A.5(2) “b”(2).
2 Objection filed 2/14/79; see Objection following 481—Ch 57.

481—63.22(135C) Care review committee. Each facility shall have a care review committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for care review committees promulgated by the department on aging. (II)

63.22(1) Role of committee in complaint investigations.
   a. The department shall notify the facility’s care review committee of a complaint from the public. The department shall not disclose the name of a complainant.
   b. The department may refer complaints to the care review committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department on aging. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation of the investigation.
   c. When the department investigates a complaint, upon conclusion of its investigation, it shall notify the care review committee and the department on aging of its findings, including any citations and fines issued.
   d. Results of all complaint investigations addressed by the care review committee shall be forwarded to the department within ten days of completion of the investigation.

63.22(2) The care review committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.

63.22(3) When requested, names, addresses and telephone numbers of family members shall be given to the care review committee, unless the family refuses. The facility shall provide a form on which a family member may refuse to have the member’s name, address or telephone number given to the care review committee.

481—63.23(135C) Safety. The licensee of a residential care facility for the intellectually disabled shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

63.23(1) Fire safety.
   a. All residential care facilities for the intellectually disabled shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)
   b. The size and condition of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.
63.23(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency which shall be rehearsed at least quarterly. (III)
   a. The plan shall be available for review upon request. (III)
   b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

63.23(3) Resident safety.
   a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)
   b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)
   c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)
   d. Smoking shall be permitted only in designated areas. (II, III)
   e. Residents shall receive adequate supervision to ensure against hazards from themselves, others, or elements in the environment. (II, III)

63.23(4) Restraints.
   a. Residents shall not be kept behind locked doors.
   b. Temporary seclusion of residents shall be used only in an emergency to prevent injury to the resident or to others pending transfer to appropriate placements.
   c. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident’s room.
   d. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.24(135C) Housekeeping.

63.24(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

63.24(2) Each resident unit shall be cleaned on a routine schedule. (III)

63.24(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

63.24(4) A hallway or corridor shall not be used for storage of equipment. (III)

63.24(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

63.24(6) Clothing worn by personnel shall be clean and washable. (III)

63.24(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

63.24(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

63.24(9) Polishes used on floors shall provide a nonslip finish. (III)

63.24(10) Throw or scatter rugs shall not be permitted. (III)

63.24(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

63.24(12) Cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall not be accessible to residents except as indicated in individualized programs of care. (II, III)

63.24(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)
481—63.25(135C) Maintenance.

63.25(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be established in writing and available for review by the department. (III)

63.25(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

63.25(3) Draperies and furniture shall be clean and in good repair. (III)

63.25(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

63.25(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electrical Code. (III)

63.25(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

63.25(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)

63.25(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

63.25(9) The facility shall be kept free of flies, other insects, and rodents. (III)

63.25(10) Janitor closet.

a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for over 15 beds, a janitor’s closet shall be provided. It shall be equipped with water for filling scrub pails and janitor’s sink for emptying scrub pails. (III)

481—63.26(135C) Laundry.

63.26(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

63.26(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

63.26(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

63.26(4) Residents’ personal laundry shall be marked with an identification. (III)

63.26(5) Bed linens, towels, washcloths, and residents’ clothing shall be clean and stain-free. (III)

63.26(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities of over 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

481—63.27(135C) Garbage and waste disposal.

63.27(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

63.27(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

63.27(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

63.27(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

63.27(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)
481—63.28(135C) Buildings, furnishings, and equipment.

63.28(1) Buildings—general requirements.

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than 7 feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within 7 feet of the floor shall be protected by screen guards of not more than 1/4-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of resident’s clothing. (III)

j. All stairways in resident-occupied areas shall have substantial handrails on both sides. (III)

k. Each stairway shall have protective barriers. (III)

l. Screens of 16 mesh per square inch shall be provided at all hold-open openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident-occupied areas shall have general lighting switched at the entrance to each room. (III)

63.28(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department’s approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

d. Night lights may be required in corridors, at stairways, attendant’s stations and resident’s bedrooms, and hazardous areas with no less than 1 foot-candle throughout the area at all times. (III)

63.28(3) Dining and living rooms.

a. Every facility over 15 beds shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 63.28(3) “e” of the rules are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall
be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.
   (1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)
   (2) Living rooms shall be suitably furnished. (III)
   (3) When space is provided to be used only for activities and recreational purposes, the area shall be at least 15 square feet per licensed bed. At least 50 percent of the required area must be in one room. (III)

 g. Dining rooms.
   (1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)
   (2) When space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

63.28(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable bedside chair per resident bed. The resident’s personal wishes shall be considered. (III)

e. There shall be drawer space for each resident’s clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. There shall be a wardrobe or closet in each resident’s room. Minimum clear dimensions shall be 1 foot 10 inches deep by 1 foot 8 inches wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident’s needs. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in the resident’s room. (III)

l. Each room shall have sufficient accessible mirrors to serve residents’ needs. (III)

m. Usable floor space of a room shall be no less than 8 feet in any major dimension. (III)

n. Bedrooms shall have a minimum of 80 square feet of usable floor space per bed. (III)

o. There shall be no more than four residents per room. (III)

p. Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

63.28(5) Bath and toilet facilities.

a. Provision shall be made for bars to hold individual towels and washcloths. (III)

b. In facilities of over 15 beds all lavatories shall have paper towel dispensers and an available supply of soap. (III)

c. Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each five residents, and one tub or shower for each ten residents or fraction thereof. (III)
d.
There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over 15 beds. Separate toilets for the sexes shall be provided. (III)

e. Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of 250 pounds for five minutes. (III)

f. Each toilet room shall have a door. (III)

g. All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)

h. Toilet and bath facilities shall have an aggregate outside window area of at least 4 square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)

i. Every facility shall provide a toilet with grab bars and lavatory for the public and staff. (III)

63.28(6) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

63.28(7) Water supply.

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

63.28(8) Sewage system.

a. Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)

b. Private sewage systems shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)

c. Every facility shall have an interior plumbing system complete with flushing device. (III)

63.28(9) Attendant’s station. In facilities over 15 beds, an attendant’s station with a minimum of 40 square feet shall be provided which is centrally located in the resident area and shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

481—63.29(135C) Family and employee accommodations.

63.29(1) Children under 14 years of age shall not be allowed into the service areas in facilities of more than 15 beds. (III)

63.29(2) The residents’ bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

63.29(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

63.29(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

63.29(5) In facilities of more than 15 beds, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)
481—63.30(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

481—63.31(135C) Environment and grounds.
   63.31(1) A residential care facility for the intellectually disabled shall be constructed in a neighborhood free from excessive noise, dirt, polluted or odorous air, or similar disturbances. (III)
   63.31(2) There shall be an area available for outdoor activities calculated at 25 square feet per licensed bed. (III) Open-air porches may be included in meeting such requirement.
   [ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.32(135C) Supplies.
   63.32(1) Linen supplies.
      a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)
      b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)
      c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)
      d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)
      e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)
   63.32(2) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)
   63.32(3) General supplies.
      a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)
      b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

481—63.33(135C) Residents’ rights in general.
   63.33(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (63.33(2) to 63.33(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)
   63.33(2) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:
      a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)
      b. As changes occur in residents’ physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)
   63.33(3) Policies and procedures regarding the use of chemical and physical restraints shall define the use of restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)
   63.33(4) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)
   63.33(5) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents’ records. (II)
   63.33(6) 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. The information must be provided upon admission or in the case of residents already in the facility upon the facility’s adoption or amendment of resident right policies.
a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents’ rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents’ rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf, or blind residents of such changes. (II)

63.33(7) Each resident or responsible party shall be fully informed in a contract as required in rule 481—63.14(135C), prior to or at the time of admission and during the resident’s stay, of services available in the facility, and of related charges not covered by the facility’s basic per diem rate. (II)

63.33(8) Each resident or responsible party shall be fully informed by a physician of the resident’s health and medical condition unless medically contraindicated (as documented by a physician in the resident’s record). Each resident shall be afforded the opportunity to participate in the planning of the resident’s total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services’ protection from research risks policy and then only upon the resident’s informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident’s medical condition and be afforded the opportunity to participate in the planning of the resident’s total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either, shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident’s condition is contraindicated, this decision and reasons for it shall be documented in the resident’s record by the physician. (II)

d. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand
the possible consequences of participating or not participating. The resident’s (or responsible party’s) written informed consent must be received prior to participation. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.34(135C) Involuntary discharge or transfer.

63.34(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident’s welfare or that of other residents; for nonpayment for the resident’s stay (as contained in the contract for the resident’s stay), and by reason of action pursuant to Iowa Code chapter 229. (I, II)

a. “Medical reasons” for transfer or discharge are based on the resident’s needs and are determined and documented in the resident’s record by the attending physician. Transfer or discharge may be required to provide a different level of care. (II)

b. “Welfare” of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might be transferred or discharged because the resident’s behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with their needs and rights). Evidence that the resident’s continued presence in the facility would adversely affect the resident’s own welfare or that of other residents shall be made by the administrator or designee and shall be in writing and shall include specific information to support this determination. (II)

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

(1) If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) If the transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. (II)

d. The notice required by paragraph “c” shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement in not less than 12-point type (e.g.), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” (II)

e. A request for a hearing made under 63.34(1)”d”(3) shall stay a transfer or discharge pending a hearing or appeal decision. (II)

f. The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department on aging long-term care ombudsman of record not later than five full business days after receipt of the request. This notice shall also inform the licensee, resident or responsible party, that they have a right to appear at the hearing in person or be represented by their
attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department on aging long-term care ombudsman shall have the right to appear at the hearing.

   g. The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or the resident’s representative requests in writing that it be closed.) The licensee or designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

   h. Based upon all testimony and materials submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department on aging long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

   A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

   i. A copy of the notice required by paragraph “c” shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department on aging long-term care ombudsman.

   j. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

   k. The involuntary transfer or discharge shall be discussed with the resident, the resident’s responsible party, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident’s record. (II)

   l. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record. (II)

   (1) Counseling shall be provided by a qualified individual who meets one of the following criteria:

   1. Has a bachelor’s or master’s degree in social work from an accredited college. (II)

   2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with public or private agency. (II)

   3. Has been employed in a social work capacity for a minimum of four years in a public or private agency. (II)

   4. Is a licensed psychologist or psychiatrist. (II)

   5. Is any other person of the resident’s choice. (II)

   (2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be discharged or transferred. (II)
(3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

m. In the case of an emergency transfer or discharge as outlined in 63.34(1)"c"(1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 63.34(1)"d"(1) and (2). In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” A hearing requested pursuant to this subrule shall be held in accordance with paragraphs “f.” “g.” and “h.” (II)

n. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department of inspections and appeals. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

63.34(2) Intrafacility transfer:

a. Residents shall not be relocated from room to room within a licensed health care facility arbitrarily. (I, II) Involuntary relocation may occur only in the following situations and such situation shall be documented in the resident’s record.

(1) Incompatibility with or disturbing to other roommates, as documented in the resident’s record.
(2) For the welfare of the resident or other residents of the facility.
(3) For medical, nursing or psychosocial reasons, as documented in the resident’s record, as judged by the attending physician, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.
(4) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex.
(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.
(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident’s room without the concurrence of the resident, or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in 63.34(2)“a”(5). (II)
(2) As punishment or behavior modification (except as specified in 63.34(2)“a’”(1). (II)
(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph “a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. Notification shall be documented in the resident’s record and signed by the resident or responsible party. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition requiring emergency relocation and the notification shall be documented. (II)
481—63.35(135C) Resident rights. Each resident shall be encouraged and assisted throughout the resident’s period of stay, to exercise the resident’s rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident’s choice, free from interference, coercion, discrimination, or reprisal. (II)

63.35(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

63.35(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:
   a. Designation of an employee responsible for handling grievances and recommendations. (II)
   b. A method of investigating and assessing the validity of a grievance or recommendation. (II)
   c. Methods of resolving grievances. (II)
   d. Methods of recording grievances and actions taken. (II)

63.35(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, care review committee members, the text of Iowa Code section 135C.46, etc., to provide to residents a further course of redress. (II)

481—63.36(135C) Financial affairs—management. Each resident, who has not been assigned a guardian or conservator by the court, may manage personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.36(1) The facility shall maintain a written account of all residents’ funds received by or deposited with the facility. (II)

63.36(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.36(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident’s responsible party shall designate a method of disbursing the resident’s funds. (II)

63.36(4) If the facility makes financial transactions on a resident’s behalf, the resident must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident’s financial or business record. (II)

63.36(5) A resident’s personal funds shall not be used without the written consent of the resident or the resident’s guardian. (II)

63.36(6) A resident’s personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident’s guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.37(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental and physical abuse. Each resident shall be free from chemical and physical restraints, except in an emergency for the shortest amount of time necessary to protect the resident from injury to the resident or to others, pending the immediate transfer to an appropriate facility. The decision to use restraints on an emergency basis shall be made by the designated charge person who shall promptly report the action taken to the physician and the reasons for using restraints shall be documented in the resident’s record. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

63.37(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)
63.37(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)
63.37(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff or as a substitute for program. (II)
63.37(4) Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain that separation until the abuse investigation is completed. (I, II)
63.37(5) Suspected abuse reports. The department shall investigate all complaints of dependent adult abuse which are alleged to have happened in a health care facility. The department shall inform the department of human services of the results of all evaluations and dispositions of dependent adult abuse investigations.
63.37(6) Pursuant to Iowa Code chapter 235B, a mandatory reporter of dependent adult abuse is any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse. This includes a member of the staff or employee of a health care facility. (II, III)
If a staff member or employee is required to report pursuant to this subrule, the staff member or employee shall immediately notify the person in charge of the facility or the person’s designated agent, and the person in charge or the designated agent shall make the report to the department of human services. (II, III)
This rule is intended to implement Iowa Code subsections 235B.3(1) and 235B.3(11).

481—63.38(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident’s records, including information contained in an automatic data bank. The resident’s written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)
63.38(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)
63.38(2) Similar procedures shall safeguard the confidentiality of residents’ personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)
63.38(3) The resident, or the resident’s responsible party, shall be entitled to examine all information contained in the resident’s record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident’s record. (II)

481—63.39(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of the resident’s dignity and individuality, including privacy in treatment and in care for the resident’s personal needs. (II)
63.39(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)
63.39(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents’ individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)
63.39(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain 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. (II)

63.39(4) Privacy of a resident’s body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

63.39(5) Staff shall knock and be acknowledged before entering a resident’s room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—63.40(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

63.40(1) Residents may not be used to provide a source of labor for the facility against their will. Physician’s approval is required for all work programs. (I, II)

63.40(2) If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

63.40(3) Residents who perform work for the facility must receive remuneration unless such work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staff requirements. (II)

481—63.41(135C) 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, and may send and receive personal mail unopened. (II)

63.41(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

63.41(2) 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:

a. The resident refuses to see the visitor. (II)

b. The resident’s physician documents specific reasons why such a visit would be harmful to the resident’s health. (II)

c. The visitor’s behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

63.41(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility’s staff; or at the resident’s request. (II)

63.41(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.41(5) Telephones consistent with ANSI standards (405.1134(c)) 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. (II)

63.41(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.41(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

63.41(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.42(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident’s discretion unless contraindicated for reasons documented by
the attending physician or qualified intellectual disabilities professional as appropriate in the resident’s record. (II)

63.42(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

63.42(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[ARC 0765C; IAB 5/29/13, effective 7/3/13]

481—63.43(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

63.43(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

63.43(2) 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. (II)

63.43(3) Any personal clothing or possessions retained by the facility for the resident during the resident’s stay shall be identified and recorded on admission and a record placed on the resident’s chart. The facility shall be responsible for secure storage of such items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

63.43(4) A resident’s personal property shall not be used without the written consent of the resident or the resident’s guardian. (II)

63.43(5) A resident’s personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident’s guardian. The department may report findings that a resident’s property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—63.44(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident’s spouse; if both are residents in the facility, they shall be permitted to share a room, if possible. (II)

63.44(1) The facility shall provide for needed privacy in visits between spouses. (II)

63.44(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident. (II)

63.44(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an arrangement would have an adverse effect on the health of the resident. (II)

481—63.45(135C) Choice of physician. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (II)

481—63.46(135C) Incompetent resident.

63.46(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident’s responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

63.46(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents’ rights. (II)
481—63.47(135C) Specialized license for three- to five-bed facilities. The specialized license is for residential care facilities which serve persons with intellectual disabilities, chronic mental illness and other developmental disabilities having five or fewer residents as specified in Iowa Code section 225C.26. The facility is exempt from Iowa Code section 135.63. For this specialized license, all rules of 481—Chapter 63 apply except those which are deleted or amended, as indicated in subsequent rules.

63.47(1) The provider may apply for a specialized license from the department of inspections and appeals. Before the license is granted, the provider shall meet all of the following requirements:

a. Compliance with program requirements pursuant to Iowa Code chapter 135C and administrative rules relating to residential care facilities adopted by the state board of health, or standards adopted by the Accreditation Council for Services for Persons with Mental Retardation and Other Developmental Disabilities (1984). The program of care shall emphasize an age-appropriate and least restrictive program.

b. The facility shall be located in areas zoned for single- or multiple-family housing, or be located in an unincorporated area, and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

c. The facility shall be appropriately accessible to residents who have disabilities. (II, III)

d. Written plans shall demonstrate that the facility meets the needs of the residents pursuant to individual program plans meeting age-appropriate and least restrictive program requirements. (II)

e. Written plans shall demonstrate the residents have reasonable access to employment for job-related training, education, generic community resources, or integrated opportunities to promote community interaction. (II)

f. Unless documented as within the residents’ individual program plans, populations with primary diagnosis of chronic mental illness or intellectual disability/developmental disability may not reside in the same specialized license facility. (II, III)

63.47(2) The housing for persons with intellectual disabilities, chronic mental illness, and other developmental disabilities, developed pursuant to this rule shall be eligible for funding utilized by licensed residential care facilities for the intellectually disabled.

63.47(3) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(4) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(5) The director of the department of inspections and appeals shall appoint a specialized license committee not to exceed nine members. This committee shall monitor the program rules and procedures adopted for this classification of license.

63.47(6) All conditions and criteria in 481—Chapter 63 apply to the specialized license with the exception of the following deletions: 481—63.7(135C), 63.8(2)‘b,’ 63.8(7)‘b,’ 63.13(1)‘l,’ 63.18(1)‘b’(9), 63.19(1)‘a,’ ‘b,’ ‘g,’ 63.19(4)‘a,’ ‘b,’ ‘c,’ ‘g,’ ‘h,’ ‘i,’ ‘l,’ ‘n,’ ‘p,’ ‘q,’ ‘r,’ ‘t,’ 63.19(5)‘b,’ ‘c,’ ‘d,’ 63.21(1), (2), (3)‘a’ to ‘e,’ (4)‘a,’ ‘b,’ ‘c’(1) to (3), ‘d,’ ‘e,’ 63.21(5)‘c,’ 63.23(3)‘c,’ 63.24(4)‘c,’ ‘d,’ 63.24(1), (7), (10), 63.25(10)‘b,’ 63.26(1) to (4), (6)‘b,’ 63.27(3) to (5), 63.28(1)‘a,’ ‘b,’ ‘f,’ ‘g,’ ‘k,’ ‘l,’ ‘m,’ ‘o,’ 63.28(2)‘c,’ 63.28(3)‘a,’ ‘d,’ ‘e,’ ‘f’(3), ‘g’(2), 63.28(5)‘b,’ ‘i,’ 63.28(9), 63.29(1), (4), (5), 63.33(6)‘d.’

63.47(7) The following rules in Chapter 63 are amended for this specialized license as follows:

1. 63.3(1)‘a’ and 63.3(2)—Delete all references to 481—Chapter 60.

2. 63.8(1)‘a’—Add “or qualified mental health professional (III)” after “qualified intellectual disabilities professional.” (III)

3. 63.8(2)—Add “For purposes of the specialized license, the administrator may act as an administrator for not more than three residential care facilities for the intellectually disabled, chronic mentally ill, and developmentally disabled.” (II)

4. 63.9(1)—Add “For purposes of the specialized license there shall be written personnel policies in all facilities to include hours of work and attendance at the education program.” (III)

5. 63.11(1)‘a’—Delete the words “a managerial role of” in line 2.

6. 63.11(2)‘b’—Delete the second sentence and “with 15 or less beds” in the third sentence.

7. 63.14(5)‘b’—Add “or guardian” after “resident” in the first line.

8. 63.17(1)—Add a new paragraph: “v. Current Individual Program Plans (IPP).”
9. 63.17(5) “a” — Add “For the specialized license, a job description shall be in the individual’s personnel file.” (III)
10. 63.19(2) “b” — Delete from the end “Recommended daily dietary allowances are:” Also delete subparagraphs (1) to (5).
11. 63.19(2) “f” — Delete the second sentence.
12. 63.19(3) “e” — Delete “for a minimum of a one-week period” in the first line.
13. 63.19(4) “m” — Delete “smooth, washable,” in the second line.
14. 63.19(4) “o” — Delete the second sentence.
15. 63.19(4) “s” — Add “and rinse” after “wash” in the first line and then delete the rest of the sentence after “(60°C)”.
16. 63.19(4) “w” — Change “or” to “and” in the first line and delete “washing, sanitizing, and air-drying”.
17. 63.19(5) “b” — Delete the second sentence.
18. 63.19(5) “f” — Add “during food preparation” after “kitchen”.
19. 63.24(9) — Change “nonslip” to “slip-resistant” in the first sentence.
20. 63.25(1) — Delete the second sentence.
21. 63.28(1) “j” — Change “on both sides” in the first line to “on at least one side”.
22. 63.28(4) “n” — Change to read “Bedrooms shall have a minimum of 60 square feet for double, 80 square feet for single, and 100 square feet physical (wheelchair).” (III)
23. 63.28(4) “o” — Change “four” to “two”.
24. 63.28(5) “c” — Amend to read: “Minimum numbers of toilets and bath facilities shall be one for each five residents.” (III)
25. 63.28(5) “d” — Amend to read: “There shall be a minimum of one bathroom with tub or shower, toilet stool, and lavatory on each floor in the multistory buildings.” (III)
26. 63.28(5) “e” — Amend to read: “Grab bars shall be provided as needed.” (III)
27. 63.33(8) — Change any reference of “responsible party” to “legal guardian”.
28. 63.33(8) “c” — Delete “in the case of a confused or intellectually disabled resident”. Change any reference of “responsible party” to “legal guardian”.
29. 63.33(8) “d” — Change any reference of “responsible party” to “legal guardian”.
30. 63.46(1) — Change any reference of “responsible party” to “legal guardian” and delete the rest of the paragraph after “state law”.

**63.47(8)** “Qualified mental health professional” is a person who:

a. Holds a master’s degree from an accredited educational institution with coursework relevant to the position for which the person is hired;

b. Has at least two years’ relevant experience supervised by a qualified mental health professional in assessing mental health problems and needs of persons in providing appropriate mental health services for those persons;

c. Holds a current Iowa license when required by Iowa licensure law.

**63.47(9)** “Intellectual disabilities” as used in this chapter shall also include the chronically mentally ill and the developmentally disabled for purposes of this specialized license.

a. For the specialized license, “persons with intellectual disabilities” means persons with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, manifested during the developmental period.

1. “General intellectual functioning” is defined as the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning;

2. “Significantly subaverage functioning” is defined as approximately 70 IQ or below;

3. “Adaptive behavior” is defined as the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for age and cultural group;

4. “Developmental period” is defined as the period of time between conception and the eighteenth birthday.
b. For the specialized license, “persons with developmental disabilities” means persons with a severe, chronic disability which:
   (1) Is attributable to mental or physical impairment, or a combination of physical and mental impairments;
   (2) Is manifested before the person attains the age of 22;
   (3) Is likely to continue indefinitely;
   (4) Results in substantial functional limitations in three or more of the following areas of life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency; and
   (5) Reflects the person’s need for a combination and sequence of services which are of lifelong or extended duration.

c. For the specialized license, “persons with chronic mental illness” means adults aged 18 or older, with persistent mental or emotional disorders that seriously impair their functioning relative to such primary aspects of daily living as personal relations, living arrangement or employment. Persons with chronic mental illness typically meet at least one of the following criteria:
   (1) Have undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or in-patient hospitalization);
   (2) Have experienced a single episode of continuous, structured supportive residential care other than hospitalization.

In addition, such persons typically meet at least two of the following criteria, on a continuing or intermittent basis for at least two years:
   1. Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history;
   2. Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help;
   3. Show severe inability to establish or maintain a personal social support system;
   4. Require help in basic living skills;
   5. Exhibit inappropriate social behavior which results in demand for intervention by the mental health or judicial system.

In atypical instances chronically mentally ill persons may vary from the above criteria.

63.47(10) For the specialized license, there shall be implemented an individual program plan (IPP) of goals and objectives for each resident developed using evaluations, assessments and progress reports. (II)

63.47(11) For the specialized license, “age-appropriate” shall mean activities, settings, personal appearance and possessions commensurate with the person’s chronological age.

63.47(12) For the specialized license, “least restrictive” shall mean the availability to the person of programs, services and settings that give the greatest opportunity for human development and to associate with and become part of the general society.

63.47(13) “Individual program plan” shall be a written plan for the provision of services to the person and, when appropriate, to the person’s family, that is developed and implemented, using an interdisciplinary process, which identifies the person’s and, when appropriate, the person’s family’s functional status, strengths, and needs, and service activities designed to enable a person to maintain or move toward independent functioning. The plan is developed in accordance with the developmental model, which is a service approach that recognizes and assumes the potential for positive change, growth, and sequential development in all people. (II)

a. An individual program plan shall be developed and implemented for each individual accepted for service, regardless of the individual’s chronological age or developmental level. (I, II)

b. The interdisciplinary team shall develop the plan. (II) For the purpose of the specialized license, the team shall include:
(1) The person, the person’s legal guardian, and the person’s family unless the family’s participation is contrary to the wishes of the adult person who has not been legally determined to be incompetent; (II, III)

(2) The service coordinator or case manager; (II, III)

(3) All current service providers; and (II, III)

(4) Other persons whose appropriateness may be identified through the diagnosis and evaluation or current reevaluation. (III)

c. The person or the person’s legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by court. (III)

d. The resident and the facility retain the rights of appeal and due process from the interdisciplinary team decisions. (II, III)

63.47(14) Goals and objectives shall be stated separately and a time frame shall be specified for their achievement. (II, III)

a. Each individual enrolled shall have an individual program plan. (II)

b. The initial individual program plan shall be developed within 30 calendar days after the individual is enrolled in this service. (II)

c. The individual program shall be developed by an appropriately constituted interdisciplinary team. (II)

d. The individual program plan shall state specific objectives to reach identified goals and shall identify the individuals responsible for implementation. (II, III)

e. Goals and objectives shall be stated separately. (II, III)

f. Goals and objectives shall be assigned projected evaluation completion dates and shall be reviewed at least annually. (II, III)

g. Goals and objectives shall be expressed in behavioral terms that provide measurable indices of progress. (II)

h. Goals and objectives shall be sequenced with a developmental progression appropriate to the individual. (II, III)

i. Goals and objectives of the individual program plans shall be assigned priorities by the interdisciplinary team and implemented with documentation of needed resources. (II, III)

j. The individual program plan shall be written in terms that are understandable to all concerned. (II, III)

63.47(15) Where implementation is a shared responsibility, the individual program plan shall identify the agencies or persons responsible for delivering the services required. (III)

63.47(16) A review of the individual program plan shall be made at least quarterly by a member or members of the individual’s interdisciplinary team, as determined by the team, in order to ensure the continuing implemented appropriateness of the plan and any necessary action to be initiated. (II)

a. Problems or changes that call for review of the individual program plan by the team shall be indicated. (II)

b. The team shall be convened at least annually to review the individual program plan where problems or changes that call for review by the team are indicated. (II, III)

c. The team review shall assess the individual’s response to activities designed to achieve the objective stated in the individual program plan. (II, III)

d. The team review shall modify activities or objectives as necessary. (II, III)

e. The team review shall determine the services that are needed. (II, III)

f. The team review shall include consideration of the advisability of continued enrollment or alternative placements. (II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.48(135C) County care facilities. Rescinded ARC 0765C, IAB 5/29/13, effective 7/3/13.

481—63.49(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other
business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)

63.49(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;
b. Compatibility of the proposed business or activity with the facility program;
c. Noise created by the proposed business or activity;
d. Odors created by the proposed business or activity;
e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
f. Use of the facility’s corridors or rooms as throughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
g. Proposed staffing for the business or activity;
h. Sharing of services and staff between the proposed business or activity and the facility;
i. Facility layout and design; and
j. Parking area utilized by the business or activity.

63.49(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

63.49(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

481—63.50(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

63.50(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

63.50(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

63.50(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

63.50(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.


[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]
[Filed 5/15/86, Notice 2/26/86—published 6/4/86, effective 7/9/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed emergency after Notice 3/12/87, Notice 12/31/86—published 4/8/87, effective 3/12/87]
[Filed 3/12/87, Notice 1/25/87—published 4/8/87, effective 5/13/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed 6/8/90, Notice 1/10/90—published 6/27/90, effective 8/1/90]
[Filed 7/17/90, Notice 5/2/90—published 8/8/90, effective 9/12/90]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 3/25/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 9/20/06, Notice 8/25/06—published 10/11/06, effective 11/15/06]
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0765C (Notice ARC 0600C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]

0 Two or more ARCs
1 Effective date of 63.15(2) “a” and “b” delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86. Effective date of 63.15(2) “a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAC 6/4/86.
2 See IAB, Inspections and Appeals Department.
3 Two ARCs
4 Rule 481—63.49(135C), effective 7/1/92.
CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE INTELLECTUALLY DISABLED*

481—64.1 Rescinded IAB 7/26/89, effective 7/7/89.

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

64.2(1) To request a variance, the licensee must:
   a. Apply for variance in writing on a form provided by the department;
   b. Cite the rule or rules from which a variance is desired;
   c. State why compliance with the rule or rules cannot be accomplished;
   d. Explain alternate arrangements or compensating circumstances which justify the variance;
   e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

64.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:
   a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
   b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
   c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
   d. Consult with the applicant if additional information is required.

64.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

[ARC 0764C, IAB 5/29/13, effective 7/3/13]

481—64.3(135C) Application for license.

64.3(1) Initial application. In order to obtain an initial intermediate care facility for the intellectually disabled license for an intermediate care facility for the intellectually disabled which is currently licensed, the applicant must:
   a. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;
   b. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;
   c. Submit a floor plan of each floor of the intermediate care facility, drawn on 8½ × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door location;
   d. Submit a photograph of the front and side elevation of the intermediate care facility for the intellectually disabled;
   e. Submit the statutory fee for an intermediate care facility for the intellectually disabled license;
   f. Meet all of the rules, regulations and standards contained in 481—Chapter 64.
   g. Comply with federal, state, and local laws, codes, and regulations pertaining to health and safety, including procurement, dispensing, administration, safeguarding and disposal of medications and controlled substances; building, construction, maintenance and equipment standards; sanitation; communicable and reportable diseases; and postmortem procedures;

*See Interpretive Guidelines at end hereof
h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

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

*a. Meet all of the rules, regulations, and standards contained in 481—Chapters 61 and 64; exceptions noted in 481—subrule 61.1(2) shall not apply;*

*Nullified by 1989 Iowa Acts, SJR 10

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;

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

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

f. Submit the statutory fee for an intermediate care facility for the intellectually disabled;

g. Comply with federal, state, and local laws, codes, and regulations pertaining to health and safety, including procurement, dispensing, administration, safeguarding and disposal of medications and controlled substances; building, construction, maintenance and equipment standards; sanitation; communicable and reportable diseases; and postmortem procedures;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

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

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

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

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

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

64.3(4) Licenses are issued to the person or governmental unit which has 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.

[ARC 0764C, IAB 5/29/13, effective 7/3/13]

481—64.4(135C) General requirements.

64.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

64.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

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

64.4(4) Licenses expire one year after the date of issuance or as indicated on the license.

64.4(5) Each citation or a copy of each citation issued by the department for a Class I or Class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)
64.4(6) The facility shall have in effect a transfer agreement with one or more hospitals sufficiently close to the facility to make feasible the transfer between them of residents and their records. (III) Any facility which does not have such an agreement in effect but has attempted in good faith to enter into such an agreement with a hospital shall be considered to have such an agreement so long as it is in the public interest and essential to ensuring intermediate care facility for the intellectually disabled services for eligible persons in the community.

64.4(7) A resident’s personal funds and property shall not be used without the written consent of the resident or the resident’s guardian. (II)

64.4(8) A resident’s personal funds and property shall be returned to the resident when the funds or property have been used without the written consent of the resident or the resident’s guardian. The department may report findings that funds or property have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

64.4(9) A properly trained person shall be charged with the responsibility of administering non-parenteral medications.

a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

c. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

   (1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

   (2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

   (3) Provide to the community college a written statement from the nursing program’s pharmacology or clinical instructor indicating the individual is competent in medication administration.

   (4) Successfully complete a department-approved nurse aide competency evaluation.

d. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

[ARC 0764C, IAB 5/29/13, effective 7/3/13]

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

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

64.5(2) Of any proposed change in the intermediate care facility for the intellectually disabled’s functional operation or addition or deletion of required services; (III)

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

64.5(4) Thirty days in advance of closure of the intermediate care facility for the intellectually disabled; (III)

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

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

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

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

   b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)
c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s intermediate care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee. (III)

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

[ARC 0764C, IAB 5/29/13, effective 7/3/13]

481—64.6(135C) Veteran eligibility.

64.6(1) Within 30 days of a resident’s admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident’s personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident’s name along with the names of the resident’s spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may report such information to the Iowa department of human services.

64.6(2) If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

64.6(3) The provisions of this rule shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care. (II, III)

481—64.7(135C) Licenses for distinct parts.

64.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

64.7(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 them within that part; (III)

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

c. The distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—64.8 to 64.16 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.17(135C) Contracts. Each party shall receive a copy of the signed contract. (III) Each contract for residents shall:

64.17(1) State the rate or scale per day or per month for services included in the rate or scale and method of payment; (III)

64.17(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in this subrule; (III)

b. State the method of payment of additional charges; (III)
c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

64.17(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on a preadmission evaluation assessment which is determined in consultation with the administrator; (III)

64.17(4) Include the total fee per day to be charged to the resident; (III)

64.17(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges, at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in charges, based on a change in the resident’s condition. Notification must occur prior to the date such revised charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

64.17(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

64.17(7) State the terms of agreement concerning the holding and charging for a bed in the event of temporary absence of the resident; such terms shall include, at a minimum, the following provisions:

a. If a resident has a temporary absence from a facility for medical treatment, the facility shall ask the resident or responsible party if they wish the bed held open. This shall be documented in the resident’s record including the response. Upon request of the resident/responsible party, the facility shall hold the bed open for at least ten days during the resident’s absence and the facility shall receive payment for the absent period in accordance with provisions of the contract. (II)

b. If a resident has a temporary absence from a facility for therapeutic reasons as approved by a physician or qualified intellectual disabilities professional, the facility shall ask if the resident or responsible party wishes that the bed be held open. This request shall be documented in the resident’s record, including the response. The bed shall be held open at least 30 days per year, and the facility shall receive payment for the absent periods in accordance with the provisions of the contract. The required holding during temporary absences for therapeutic reasons is limited to 30 days per year. (II)

c. For Title XIX residents the department of social services shall continue funding for the temporary absence as provided under paragraphs ‘a’ and “b” and in accordance with department of social services guidelines.

d. Private pay residents shall have a negotiated rate stated in the signed contract relating to these provisions. (II)

64.17(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

64.17(9) State the conditions of voluntary discharge or transfer; (III)

64.17(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III) [ARC 0764C, IAB 5/29/13, effective 7/3/13]

481—64.18(135C) Records.

64.18(1) Resident record. The licensee shall keep a permanent record about each resident, with all entries current, dated, and signed. (II) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)
c. Church affiliation of resident; (III)
d. Physician’s name, telephone number, and address; (III)
e. Dentist’s name, telephone number, and address; (III)
f. Name, address, and telephone number of resident’s next of kin or legal representative; (III)
g. Name, address, and telephone number of the person to be notified in case of emergency; (III)
h. Funeral director’s telephone number and address; (III)
i. Pharmacy’s name, telephone number and address; (III)
j. Certification by the physician that the resident requires no higher level of care than the facility is licensed to provide; (III)
k. Physician’s orders for medication and treatments in writing, which shall be signed by the physician quarterly, and diet orders, which shall be renewed yearly; (III)
l. A notation of the resident’s yearly or other visits to physician or other professionals and all consultation reports and progress notes; (III)
m. Documentation describing any change in the resident’s condition; (II, III)
n. A notation describing the resident’s condition on admission, transfer, and discharge; (III)
o. In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)
p. A copy of instructions given to the resident, the resident’s legal representative, or receiving facility in the event of the resident’s discharge or transfer; (III) and
q. Disposition of personal property. (III)

64.18(2) Confidentiality of resident records. The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automated data bank. The resident’s or the resident’s legal guardian’s written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the release of the information, how the information is to be used, and the period of time for which the release is in effect. A third party not requesting the release shall witness the signing of the release of information form. (II)

a. The facility shall limit access to any resident records to staff and consultants providing professional service 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. (II)

Only those personnel concerned with financial affairs of the residents may have access to the financial information. This paragraph is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

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 qualified mental health professional determines the disclosure of the record or certain information contained in the record is contraindicated in which case the information will be deleted before the record is made available to the resident. This determination and the reasons for it must be documented in the resident’s record by the physician or qualified mental health professional in collaboration with the resident’s interdisciplinary team. (II)

64.18(3) Incident records. Each facility shall maintain an incident report record and shall have available incident report forms. (II, III)

a. The report of every incident shall be in detail on a printed incident report form. (II, III)

b. The person in charge at the time of the incident shall oversee the preparation of the report and sign the report. (III)

c. The facility shall maintain a copy of the incident report as part of the facility’s administrative records and shall make the record available for review. (III)
64.18(4) **Retention of records.** A resident’s 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 of the facility. (III)

When the facility ceases to operate, the resident’s records shall be released to the receiving facility. If no transfer occurs, the records shall be released to the resident’s physician. (III)

481—64.19 to 64.32 Reserved.

481—64.33(235B) **Separation of accused abuser and victim.** Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain the separation until the abuse investigation is completed. (I, II)

481—64.34(135C) **Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.** The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—64.35(135C) **Care review committee.** Each facility shall have a care review committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for care review committees promulgated by the department of elder affairs. (II)

64.35(1) **Role of committee in complaint investigations.**

a. The department shall notify the facility’s care review committee of a complaint from the public. The department shall not disclose the name of a complainant.

b. The department may refer complaints to the care review committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department of elder affairs. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation of the investigation.

c. When the department investigates a complaint, upon conclusion of its investigation, it shall notify the care review committee and the department of elder affairs of its findings, including any citations and fines issued.

d. Results of all complaint investigations addressed by the care review committee shall be forwarded to the department within ten days of completion of the investigation.

64.35(2) **The care review committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.**

64.35(3) **When requested, names, addresses and telephone numbers of family members shall be given to the care review committee, unless the family refuses.** The facility shall provide a form on which a family member may refuse to have the member’s name, address or telephone number given to the care review committee.

This rule is intended to implement Iowa Code section 135C.25.

481—64.36(135C) **Involuntary discharge or transfer.**

64.36(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident’s welfare or that of other residents; for nonpayment for the resident’s stay (as contained in the contract for the resident’s stay), except as prohibited by Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396k by reason of action pursuant to Iowa Code chapter 229; by reason of negative action by the Iowa department of human services; and by reason of negative action by the professional review organization. A resident shall not be transferred or discharged solely because the cost of the resident’s care is being paid under Iowa Code chapter 249A, or because the resident’s source of payment is changing from private support to payment under chapter 249A. (I, II)
a. “Medical reasons” for transfer or discharge are based on the resident’s needs and are determined and documented in the resident’s record by the attending physician. Transfer or discharge may be required to provide a different level of care. In the case of transfer or discharge for the reason that the resident’s condition has improved so that the resident no longer needs the level of care being provided by the facility, the determination that medical reason exists is the exclusive province of the professional review organization or utilization review process in effect for residents whose care is paid in full or in part by Title XIX. (II)

b. “Welfare” of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might be transferred or discharged because the resident’s behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident’s behavior is incompatible with their needs and rights). Evidence that the resident’s continued presence in the facility would adversely affect the welfare of the resident or that of other residents shall be made by the administrator or designee and shall be in writing and shall include specific information to support this determination. (II)

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

1. If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

2. If the transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. (II)

3. If the discharge or transfer is the result of a final, nonappealable decision by the department of human services or the professional review organization.

d. The notice required by 64.36(1)”c” shall contain all of the following information:

1. The stated reason for the proposed transfer or discharge. (II)

2. The effective date of the proposed transfer or discharge. (II)

3. A statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.” (II)

e. A request for a hearing made under 64.36(1)”d”(3) shall stay a transfer or discharge pending a hearing or appeal decision. (II)

f. The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department of elder affairs long-term care ombudsman of record not later than five full business days after receipt of the request. This notice shall also inform the licensee, resident or responsible party that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party
present. The Iowa department of elder affairs long-term care ombudsman shall have the right to appear at the hearing.

$g$. The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or the resident’s representative requests in writing that it be closed.) The licensee or a designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

$h$. Based upon all testimony and material submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department of elder affairs long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

$i$. A copy of the notice required by 64.36(1)”c” shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department of elder affairs long-term care ombudsman.

$j$. If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the professional review organization (Iowa Foundation for Medical Care), appeals shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

$k$. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

$l$. The involuntary transfer or discharge shall be discussed with the resident, the resident’s responsible party, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident’s record. (II)

$m$. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record. (II)

1. Counseling shall be provided by a qualified individual who meets one of the following criteria:
   1. Has a bachelor’s or master’s degree in social work from an accredited college. (II)
   2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency. (II)
   3. Has been employed in a social work capacity for a minimum of four years in a public or private agency. (II)
   4. Is a licensed psychologist or psychiatrist. (II)
5. Is any other person of the resident’s choice. (II)

   (2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be discharged or transferred. (II)

   (3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

n. In the case of an emergency transfer or discharge as outlined in 64.36(1)“c”(1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 64.36(1)“d”(1) and (2). In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.” A hearing requested pursuant to this subrule shall be held in accordance with 64.36(1)“f,” “g.” and “h.” (II)

   o. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department of inspections and appeals. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

64.36(2) Intrafacility transfer.

   a. Residents shall not be relocated from room to room within a licensed health care facility arbitrarily. (I, II) Involuntary relocation may occur only in the following situations and such situation shall be documented in the resident’s record.

   (1) Incompatibility with or disturbing to other roommates, as documented in the resident’s record.

   (2) For the welfare of the resident or other residents of the facility.

   (3) For medical, nursing or psychosocial reasons, as documented in the resident’s record, as judged by the attending physician, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

   (4) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex.

   (5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

   (6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

   b. Unreasonable and unjustified reasons for changing a resident’s room without the concurrence of the resident, or responsible party include:

   (1) Change from private pay status to Title XIX, except as outlined in 64.36(2)“a”(5). (II)

   (2) As punishment or behavior modification (except as specified in 64.36(2)“a”(1). (II)

   (3) Discrimination on the basis of race or religion. (II)

   c. If intrafacility relocation is necessary for reasons outlined in 64.36(2)“a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident’s record and signed by the resident or responsible party. (II)

   d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be
documented. The family or responsible party shall be notified immediately or as soon as possible of the condition requiring emergency relocation and notification shall be documented. (II)

This rule is intended to implement Iowa Code sections 135C.2(3) and 135C.14(8).

481—64.37 to 64.58 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.59(135C) County care facilities. Rescinded ARC 0764C, IAB 5/29/13, effective 7/3/13.

481—64.60(135C) Federal regulations adopted—conditions of participation. Regulations in 42 CFR Part 483, Subpart D, Sections 410 to 480 effective October 3, 1988, are adopted by reference and incorporated as part of these rules. A copy of these regulations is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

Classification of violations is I, II, and III, determined by the division using the provisions in 481—Chapter 56, “Fining and Citations,” to enforce a fine to cite a facility.

This rule is intended to implement Iowa Code section 135C.2(3).

481—64.61(135C) Federal regulations adopted—rights. Regulations in 42 CFR Part 483, Subpart B, Sections 10, 12, 13, and 15 effective August 1, 1989, are adopted by reference and incorporated as part of these rules. Section 10 governs resident rights; Section 12, admission, transfer or discharge rights; Section 13, resident behavior and facility practices; and Section 15, quality of life. Classification of violations for all of these regulations is I and II. A copy is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

NOTE: The federal interpretive guidelines are printed immediately following 481—Chapter 64.

This rule is intended to implement Iowa Code section 135C.14(8).

481—64.62(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)

64.62(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;
b. Compatibility of the proposed business or activity with the facility program;
c. Noise created by the proposed business or activity;
d. Odors created by the proposed business or activity;
e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
g. Proposed staffing for the business or activity;
h. Sharing of services and staff between the proposed business or activity and the facility;
i. Facility layout and design; and
j. Parking area utilized by the business or activity.

64.62(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

64.62(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules. (I, II, III)
Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

64.63(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

64.63(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

64.63(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

64.63(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.2(6), 135C.6(1), 135C.14, 135C.14(8), 135C.25, 135C.25(3), 135C.32, 135C.36, 227.4, 235B.1(6), and 235B.3(11).

[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed 2/6/87, Notice 10/22/86—published 2/25/87, effective 4/1/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]
[Filed emergency 3/16/90—published 4/4/90, effective 3/16/90]
[Filed 1/16/91, Notice 11/28/90—published 2/6/91, effective 3/13/91]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]\(^2\)
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]
[Filed ARC 0764C (Notice ARC 0599C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed Without Notice ARC 0906C, IAB 8/7/13, effective 11/6/13]

\(^0\) Two or more ARCs
\(^1\) See IAB, Inspections and Appeals Department.
\(^2\) Two ARCs
INTERPRETIVE GUIDELINES*

These guidelines are included in the Iowa Administrative Code pursuant to Iowa Code section 135C.2(3) “d” and are not subject to the rule-making provisions in Iowa Code sections 17A.4 and 17A.5.

440.150(e) The statutory and regulatory use of the word “institution” includes settings that serve four or more people with mental retardation and/or related conditions.

See §435.1009 for definition of “persons with related conditions.”

The presence or absence of an individual requiring a medical care plan, as defined at W320, is not salient in the determination of whether a facility is eligible to participate in the ICF/MR program.

483.410(a)(1) The responsibility for direction includes areas such as health, safety, sanitation, maintenance and repair, and utilization and management of staff, especially when problems in these areas are of a serious or recurrent nature. Condition level deficiencies (other than the Governing Body Condition) or repeat, pervasive patterns of deficiencies at the Standard level may be an indication that the governing body is not providing sufficient operating direction over the facility. When a pattern of serious or repeated deficiencies is identified during the survey, interview the administrator or review the minutes of governing body meetings, if available, to determine whether or not the governing body has identified and addressed the problem.

Staff who have been trained, but are not implementing programs or are inappropriately deployed (e.g., there are enough staff but they are assigned to duties like record keeping which prevents them from delivering needed services), may indicate a failure of the governing body to adequately direct the staff’s activities.

483.410(b) Licenses, permits, and approvals of the facility must be available to you upon request. Current reports of inspections by State and/or local health authorities are on file, and notations are made of action taken by the facility to correct deficiencies.

Some State or local laws are more stringent or prescriptive than the Federal Medicaid requirement on the same issue. Failure of the facility to meet a Federal (i.e., non-Medicare or Medicaid), State or local law may be cited only when the authority having jurisdiction (AHJ) has both made a determination of non-compliance and has taken a final adverse action.

An adverse action is defined as any procedure that goes beyond the approval of a plan of correction, such as a civil money penalty, ban on admissions, denial of payment, or loss of license, and is not under appeal by the provider. The AHJ is the public official(s) having authority to make a determination of noncompliance, and is responsible for signing correspondence notifying the facility of the adverse action.

If you believe you have identified a situation indicating the provider may not be in compliance with a Federal, State or local law, refer that information to the AHJ for follow-up action. If a final adverse action results, then the facility could be found to not meet §483.410(b).

483.410(c)(1) The structure and content of the individual’s record must be an accurate, functional representation of the actual experience of the individual in the facility. This should be identified through interviews with staff and, when possible, with individuals being served, as well as through observations.

The regulations do not specify that all information about an individual be located in the individual program plan (IPP) document, only that information explicitly identified in the regulations. The regulations do not prescribe the manner, form or where in the individual’s record this information is to be recorded.

483.410(c)(2) “Keep confidential” means safeguarding the content of information including video, audio, and/or computer stored information from unauthorized disclosure without the specific informed consent of the individual, parent of a minor child, or legal guardian, and consistent with the advocate’s right of access, as required in the Developmental Disabilities Act. Facility staff and consultants, hired to provide services to the individual, should have access to only that portion of information that is necessary to provide effective responsive services to the individual.

*Editor’s Note: Verbatim from federal regulations—neither the Department nor the Administrative Code Editors have attempted to correct inconsistencies in numbering, spelling or grammar.
Confidentiality applies to both central records and information kept at dispersed locations. If there is information considered too confidential to place in the record used by all staff (e.g., identification of the family’s financial assets, sensitive medical data), it may be retained in a secure place in the facility (e.g., social worker’s locked desk). A notation must be made in the record of the location of confidential information (e.g., “Family information is available from the social worker”).

The sharing of individual specific information with members of the “specially constituted committee” required by §483.450(f)(3), who are not affiliated with the agency, does not violate an individual’s right to have information about him or her kept confidential. The committee needs to know relevant information to function properly.

The facility is allowed the flexibility to work out arrangements with its members to maintain confidentiality.

483.410(c)(3) Although one facet of the requirement is that the facility must decide how this is to be accomplished (i.e., policies and procedures), the surveyor’s primary focus should be on the second part of the requirement, i.e., the facility’s implementation or “outcome” that consent is obtained prior to the release of any individual information (e.g., records, photographs, interviews, or other means of exposure to public view or identification).

The following guidance is provided to assist in determining whether informed consent for release of information is adequate:

1. Was the confidential information to be released specifically identified?
2. Was the person or agency to whom the information was to be released identified to the consenting party?
3. Was the consent time-limited (i.e., include the date the consent was given, and the date which the specific consent would be invalid)?
4. Was the person giving consent legally able to give consent?

Information regarding an individual’s HIV status may not be released without specific consent and may not be in the record if that consent has not been given. Staff are expected to use universal precautions when dealing with all individuals, therefore, it is unnecessary to routinely share information about HIV status with all staff. Under some conditions, knowledge may be shared with those directly involved in the care of infected persons. Surveyors should be familiar with State law requirements.

483.410(c)(4) In cases in which facilities have created the option for an individual’s record to be maintained by computer, rather than hard copy, electronic signatures are acceptable.

Given the large number of entries that are made in individual’s records, this requirement is cited only when a systemic problem is identified.

483.410(c)(6) “Appropriate” means those parts of each individual’s record most likely (or known) to be needed by the residential staff to carry out the individual’s active treatment program in the unit, to alert staff to health risks and other aspects of medical treatment, to support the psychosocial needs of the individual, and anything else necessary to the staff’s ability to work on behalf of the individual.

483.410(d)(1) Federal statute (P.L. 94-142) requires all school-aged children to receive a free and appropriate school education. Therefore, a written agreement between ICFs/MR and public schools is not necessary.

483.410(d)(2)(ii) Outside providers of day services would not have to meet certain requirements relating to physical environment under §§483.470 (a)-(g), (j), and (k) unless that source also provides living quarters for ICF/MR individuals. Outside sources must, of course, meet any applicable State and local requirements.

The facility’s responsibility includes assuring that any restrictive techniques proposed for use by outside service providers are used only when warranted and with the required safeguards and approvals.

483.410(d)(3) “Assure” means that the facility’s staff actively participate with staff in outside programs in the assessment process and in development of objectives and intervention strategies. For example, if a public school is implementing a manual communication system with an individual, the direct care staff in the individual’s living unit should have instructions to implement the program in the residential environment. Likewise, if the facility is implementing a behavior management program
for the individual, it should be shared with and implemented as needed by the outside program. This communication is often difficult, but nevertheless essential to the provision of active treatment.

483.410(d)(4) Even though the facility’s premises may be rented from a landlord, the facility must ensure that the requirements for physical environment are met, either through arrangement with the landlord or through the facility’s own services.

483.420 A citation of W127 or W150, which require that individuals are not subjected to verbal, sexual, or psychological abuse or punishment, is sufficient justification that the facility has failed to comply with the most fundamental of protections and, therefore, does not comply with this Condition of Participation.

483.420(a) “Ensure” means that the facility actively asserts the individual’s rights and does not wait for him or her to claim a right. This obligation exists even when the individual is less than fully competent and requires that the facility is actively engaged in activities which result in the pro-active assertion of the individual’s rights, e.g., guardianship, advocacy, training programs, use of specially constituted committee, etc.

483.420(a)(1) The obligation to inform requires that the facility present information in a manner and form which can be understood, e.g., use of print materials, specialized programs to inform individuals who are deaf or blind, use of interpreters, etc.

483.420(a)(2) The term “attendant risks of treatment” refers to all treatment, including medical treatment. An individual who refuses a particular treatment (e.g., a behavior control, seizure control medication or a particular intervention strategy) must be offered information about acceptable alternatives to the treatment being refused, if acceptable alternatives are available. The individual’s preference about alternatives should be elicited and considered in deciding on the course of treatment. If the individual also refuses the alternative treatment, or if no alternative exists to the treatment refused, the facility must consider the effect this refusal may have on other individuals, the individual himself or herself and the facility, and if it can continue to treat the individual consistent with these regulations. Thus, every effort must be made to assist the individual to understand and cooperate in the legitimate exercise of the IPP.

An individual being considered for participation in experimental research must be fully informed of the nature of the experiment (e.g., medication, treatment) and understand the possible consequences of participating or not participating. The individual’s written consent must be received prior to participation. For an individual who is a minor or who has been adjudicated as incompetent, the written informed consent of parents of the minor or the legal guardian is required.

The determination as to whether the individual was sufficiently “informed” is based on the following:

1. Was the individual aware of the proposed program or treatment, the procedures to be followed, and the identification of the person who will perform the treatment activity?
2. Was the individual aware of the intended outcome or benefits of the proposed program or treatment?
3. Was the individual aware of the possible risks, including side effects and attendant discomfort of the proposed program or treatment, and the steps to be taken to minimize risk?
4. Was the individual aware of the ramifications if he or she decided not to participate, and of the alternatives to the proposed activity, particularly alternatives offering less risk or adverse effects?
5. Did the individual participate voluntarily? Did the individual have the opportunity to have questions about the activity answered?
6. Was the information about the activity presented in language that could be readily understood by the individual?

Additionally, for experimental, invasive or potentially harmful treatment, activities or procedures for which written informed consent is recommended, if not otherwise required by State or Federal law:

1. Was the consent time-limited (i.e., include the date the consent was signed and the date it becomes invalid)?
2. Did the individual realize that consent to participate could be withdrawn at any time without risk of punitive action?
3. Was the person who gave consent the legally appropriate party to do so for the individual?
483.420(a)(3) The facility must ensure protection of the individual from any form of reprisal or intimidation as a result of a complaint or grievance reported by an individual.

As long as there are no decisions or circumstances which require action by a legally-appointed surrogate, a spokesperson or advocate could assist the individual in exercising his or her rights as a citizen of the United States and as a person residing in the facility. Some examples might include assisting the individual to express his/her needs, wants and interests, to utilize community resources or to file a complaint. A spokesperson might also express opinions regarding situations in which consent by the beneficiary, parent of a minor, or legal guardian is required in order to bring to the attention of the facility potential concerns or problems.

The extent to which any person can act on behalf of another individual who has been assessed as needing a guardian, however, is entirely dependent upon the needs of the individual client and upon the laws and regulations of the State in which that individual resides. The facility and surveyor must be familiar with the laws and regulations of the State in which the facility is located. It is inappropriate for the facility to unofficially delegate the individual’s rights to others (e.g., parents, family, advocacy groups, etc.). To the extent that the individual is able to make decisions for himself or herself, it is inappropriate to delegate the person’s rights to others.

Individuals who need guardianship or advocacy, and do not have this need addressed, are not prepared to exercise their rights as citizens of the United States. The facility’s failure to ensure guardianship or advocacy for those who need it should be cited. Further deficiencies may also be cited under W123, W124, W143, and W263, depending upon the survey findings.

483.420(a)(4) Since the use of money is a right, determine if the facility demonstrated, based on objective data, that the individual was unable to be taught how to use money before the decision was made to restrict that right.

483.420(a)(5) The facility is responsible to organize itself in such a manner that it proactively assures individuals are free from serious and immediate threat to their physical and psychological health and safety. Citing of this requirement indicates that there is a high probability that abuse to individuals could occur at any time, or already has occurred and may well occur again, if the individuals are not effectively protected from the serious physical or psychological harm or injury, or if the threat is not removed. A citation of this requirement, therefore, must result in a determination of Condition level non-compliance due to immediate and serious threat. Cross reference W122 for additional guidance.

“Threat,” as used in this guideline, is any condition/situation which could cause or result in severe, temporary or permanent injury or harm to the mental or physical condition of individuals, or in their death.

“Abuse” refers to the ill-treatment, violation, revilement, malignation, exploitation and/or otherwise disregard of an individual, whether purposeful, or due to carelessness, inattentiveness, or omission of the perpetrator.

“Physical abuse” refers to any physical motion or action, (e.g., hitting, slapping, punching, kicking, pinching, etc.) by which bodily harm or trauma occurs. It includes use of corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment. Observe individuals to see if they are bruised, cut, burned (cigarettes, etc.).

“Verbal abuse” refers to any use of oral, written or gestured language by which abuse occurs. This includes pejorative and derogatory terms to describe persons with disabilities.

“Psychological abuse” includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion, intimidation, whereby individuals suffer psychological harm or trauma.

Individuals must not be subjected to abuse by anyone (including, but not limited to, facility staff, consultants or volunteers, staff of other agencies serving the individual, family members or legal guardians, friends, other individuals, or themselves).

Since many individuals residing in ICFs/MR are unable to communicate feelings of fear, humiliation, etc., the assumption must be made that any actions that would usually be viewed as psychologically or verbally abusive by a member of the general public, is also viewed as abusive by the individual residing in the ICF/MR, regardless of that individual’s perceived ability to comprehend the nature of the incident.
The facility must take whatever action is necessary to protect the individuals residing there. For example, if a facility is forced by court order or arbitration rulings to retain or reinstate an employee believed to be abusive, the facility may need to take other measures (such as assigning the employee to an area where there is no contact with beneficiaries, providing increased supervision and additional training for the employee, appealing the arbitration or court decision or pursuing formal criminal charges) in order to ensure beneficiary safety.

483.420(a)(6) The chronic use of restraints may indicate one or more of the following: the individual’s developmental and/or behavioral needs are not being met and the appropriateness of placement should be questioned; staff behavior may be prompting behaviors in individuals which result in the chronic use of physical restraints and drugs to control behavior; staff may have inadequate training and/or experience to provide active treatment and employ preventive measures that reduce the levels of behaviors judged to require physical restraints and drugs to control behavior; and restraints may be applied to behaviors which are, in fact, not threatening to the health and welfare of the individual or other individuals and staff.

483.420(a)(7) The facility must have a method of arranging for privacy of visits between individuals with significant relationships, if they do not both reside at the facility.

483.420(a)(7) The facility must examine and treat individuals in a manner that maintains the privacy of their bodies. Only employees directly involved in the treatment are present when treatments are given. Some method or mechanism which ensures privacy (such as a closed door, a drawn curtain or systematically implemented training for an individual to use their own methods) must be employed to shield the individual from passers-by. People not involved in the care of the individual should not be present without their consent while they are being examined or treated.

If an individual requires assistance during toileting, bathing, and other personal hygiene activities, staff should assist, giving utmost attention to the individual’s need for privacy. There is no prohibition, however, on staff to work with individuals of the opposite sex.

Exercise special attention to ensure that your behavior, during onsite observations in the individual’s home, does not violate an individual’s right to privacy during treatment and care of personal needs.

483.420(a)(8) “Work,” as used in the regulation, means any directed activity, or series of related activities which results in benefit to the economy of the facility or in a contribution to its maintenance, or in the production of a salable product. In deciding whether a particular activity constitutes “work” as defined above, the key determinant is if an individual was unavailable to perform the particular activity or function, would the facility be required to hire additional full or part-time staff (or pay overtime to existing staff) in order to properly maintain the facility or to provide necessary care services to individuals, in order to carry out its assigned mission?

Individuals are not to be used to provide a source of labor for a facility against their will or in opposition to the objectives of the IPP.

Seriously question any situation in which an individual is observed or reported to be “volunteering” to do real work that benefits the facility, or its maintenance without compensation. Interview such individuals to determine if they have given informed consent to such practices and understand that by providing employable services they are able to be compensated. This does not preclude an individual from helping out a friend or being kind to others. Self-care activities related to the care of one’s own person are not considered “work” for purposes of compensation.

Regular participation in the domiciliary activities of maintaining one’s own immediate household or residential living unit which can lead to the individual’s greater functional ability to perform independent household tasks is also not considered “work” for the facility. Shared duties are common and appropriate. Included in, but not limited to, these domiciliary tasks are:

- Meal planning, food purchasing, food preparation, table setting, serving, dishwashing, etc.;
- Household cleaning, laundry;
- Clothes repair;
- Light yard and house maintenance (painting, simple carpentry, etc.); and
- General household shopping, including clothing.
In general, participation in any household task which promotes greater independent functioning (and which the individual has not yet learned) is permitted as long as tasks are included in the IPP in written behavioral and measurable terms. This participation must be supervised, and indices of performance should be available. No task may be performed for the convenience of staff (e.g., supervising individuals, running personal errands) or which has no relationship to the individual’s IPP.

As individuals become widely competent and independent in household tasks, they must not be used in those capacities and represented as “in training” and serious consideration should be given to the individual’s potential for even less restrictive environments. (See also §§483.440(a)(2) and (b)(1).) However, it is acceptable for individuals to engage in household tasks which are in common with other individuals, all sharing the total household tasks commonly shared in nuclear family units. The test in this regard is:

The expectation is that tasks are the general responsibility of the individual, and that the duties rotate to the maximum extent possible; and/or

The individual can assume control in performing the responsibility given (e.g., John has until Thursday at 8 p.m. to clean the living and dining rooms), thereby adding to the development of internal controls and assumption of responsibility by individuals.

Work performed by the individual which no other individual is required or expected to do, or is not a regular part of running the household, must be compensated.

“Compensated” means the receipt of money or other forms of negotiable compensation for work (including work performed in an occupational training program) which is available to the individual, to be used at his or her discretion in determining the benefits to be derived therefrom.

“Prevailing wage” refers to the wage paid to non-disabled workers in nearby industry or the surrounding community for essentially the same type, quality and quantity of work or work requiring comparable skills.

A working individual must be paid at least the prevailing minimum wage except when an appropriate certificate has been obtained by the facility in accordance with current regulations and guidelines issued under the Fair Labor Standards Act, as amended.

Any individual performing work, as defined above, must be compensated in direct proportion to his or her productivity as measured in work equivalents of a regular employee’s output. For example, if an individual’s productivity for a particular work activity or function is determined to be 30 percent of normal output for an average non-disabled worker, and the prevailing wage is $4.00 an hour, then the individual should be compensated in money at a rate of one dollar and twenty cents per hour (.30 x $4.00 = $1.20). If a piece rate can be determined for a particular job, an individual is paid based on the number of pieces he or she produces. An individual’s pay is not dependent on the production of other individuals when he or she works in a group.

When the individual’s active treatment program includes assignment to occupational or vocational training or work, specific work objectives of anticipated progress should be included in the IPP along with reasons for the assignments. If the training of individuals on particular occupational activities or functions involves “real work” to be accomplished for the facility, the individuals must be compensated based on ability. For example, if in the process of work training activities involved with learning to clean a floor, the floor for a particular building is cleaned and does not require further janitorial cleanup, then the individual must be compensated for this activity.

483.420(a)(9) Space must be provided for individuals to receive visitors in reasonable comfort and privacy.

483.420(a)(9) Assistance must be provided to individuals who require help in reading or sending mail. Refer to W145.

483.420(a)(11) Outdoor and out of home activities are planned for all individuals on a regular basis.

483.420(a)(12) All individual possessions regardless of their apparent value to others must be treated with respect, for what they are and for what they may represent to the individual. The facility should encourage individuals to use or display possessions of his or her choice in a culturally normative manner. Appropriate personal possessions includes personal care and hygiene items. Individuals should not be without personal possessions because of the behavior of others with whom they live. If a method
for identifying personal effects is used, it should be inconspicuous and in a manner that will assist the individual to identify them.

“Appropriate” clothing means a supply of clothing that is sufficient, in good repair, accounts for a variety of occasions and seasons, and appropriate to age, size, gender, and level of activity. Modification or adaptation of clothing fasteners should be considered based on the needs of an individual with a physical disability to be independent.

As appropriate, each individual’s active treatment program maximizes opportunities for choice and self-direction with regard to choosing and shopping for clothing which enhances his or her appearance, and selecting daily clothing in accordance with age, sex and cultural norms. Individuals are permitted to keep personal clothing and possessions for their use while in the facility. Determine how the facility both ensures the safety of personal possessions while at the same time providing individual access to them when the individual chooses.

Individuals are provided the opportunity, encouraged, and trained to use age-appropriate materials. The term “age-appropriate” refers to anything that reinforces recognition of the individual as a person of a certain chronological age. The facility’s environment must be furnished with materials and activities that will enhance opportunities for growth. Determine whether the failure of an individual to achieve functional, adaptive skills, or to have opportunities to make informed choices, or to achieve any positive outcomes is a result of the constant use of materials or participation in activities that are age-inappropriate.

483.420(b)(1)(i) A “full and complete accounting for personal funds” does not need to document accounting for incidental expenses or “pocket money,” funds a capable individual handles without assistance, funds dispensed to an individual under a program to train the individual in money management, and funds that are not entrusted to the facility (e.g., funds paid directly to the individual’s representative payee).

483.420(b)(1)(ii) Although prudent to do so, there is no Federal requirement to maintain individuals’ personal funds in financial institutions in interest bearing accounts, or in accounts separate from other individual accounts. However, if the facility elects to pool individuals’ funds in an interest bearing account, including common trust accounts, it is expected to know the interest separately accrued by each individual, as part of its required accounting of funds. Interest accumulated to an individual’s account belongs to the individual, not the facility.

483.420(b)(2) Parents or other family members should not have automatic access to the financial records of adult individuals. It is not necessary that a facility be required to furnish an annual financial statement to the individual or the individual’s family, since the facility is already required to make the financial record available at any time upon request. The individual, in turn, is free to choose to make his or her financial record available to anyone else.

483.420(c)(1) “Unobtainable,” as used in this standard, means that the facility has made a bonafide effort to seek parental or guardian participation in the process, even though the effort may ultimately be unsuccessful (for example, the parent may be impossible to locate or may prove unwilling or unable to participate).

“Inappropriate” as used in this standard means that the parent or legal guardian’s behavior is so disruptive or uncooperative that others cannot effectively participate; the individual does not wish his or her parent to participate, and the individual is competent to make this decision; or there is strong evidence that the parent or guardian is not acting on the individual’s behalf or in the individual’s best interest. In the case of the latter, determine what the facility has done to bring effective resolution to the problem.

483.420(c)(2) Where possible, randomly select a family or guardian to validate the quality, nature and frequency of the communications between the facility and families or guardians (but only with their consent). There is no requirement that each contact with family and friends be documented.

483.420(c)(3) Any limitations of visitors are recorded by the interdisciplinary team with reason and time limits given. Decisions to restrict a visitor must be reviewed and re-evaluated each time the IPP is reviewed or at the individual’s request. If you find broad restrictions, review general facility access policies.
The facility should have arrangements available to provide privacy for families and others when visiting with individuals.

483.420(c)(5) It is not acceptable for a facility to sponsor or allow individuals to take a particular type of trip that is contraindicated. For example, in the situation of an individual subject to abuse by a parent, the facility obviously is not required to permit such a trip. However, as with any right that may need to be modified or limited, the individual should be provided with the least restrictive and most appropriate alternative available.

483.420(c)(6) “Significant” incidents or changes in the individual’s condition refers to any type of occurrence or event, that is perceived to have some level of importance to the individual, family or guardian. Examples include, but are not limited to, allegations of mistreatment, psychological trauma experienced by the individual, loss or change of a program service or staff person, entry or placement in new programs or agencies, day-to-day events on which family members express interest to be informed, etc.

483.420(d)(1) “Mistreatment” as used in this standard, includes behavior or facility practices that result in any type of individual exploitation such as financial, sexual, or criminal.

“Neglect” means failure to provide goods or services necessary to avoid physical or psychological harm.

See W127 for definitions related to “abuse.”

483.420(d)(1)(i) See W127, Facility Practices, as related specifically to staff of the facility.

A citation of this requirement indicates that abuse to an individual by staff of the facility is highly likely to occur or has already occurred and may well occur again if the individual is not effectively protected. A citation of this requirement, therefore, must result in Condition-level non-compliance due to immediate and serious threat. Cross reference W122 and W127.


483.420(d)(1)(iii) This regulation applies to the hiring of new employees on or after October 3, 1988. The facility is required to screen potential employees for a prior employment history of child or client abuse, neglect or mistreatment, as well as for any conviction based on those offenses. The abuse, neglect or mistreatment must be directed toward a child or an individual who is a client (resident, patient) in order for the prohibition of employment to apply.

This requirement also applies to acts of abuse, neglect or mistreatment committed by a current ICF/MR employee outside the jurisdiction of the ICF/MR (e.g., in the community or in another health care facility). A substantiated allegation of abuse, neglect or mistreatment which occurred after October 3, 1988, (regardless of the date of the person’s employment in the ICF/MR), and which resulted in the termination of that person’s employment from another health care facility, becomes a part of the person’s employment history and the ICF/MR is prohibited from continuing to employ the individual. For example, an individual who abused a resident in a nursing facility and as a result, is barred from employment in the nursing home setting would also be prohibited from employment in the ICF/MR. While facilities are not required to periodically screen existing employees, if the facility becomes aware that such action has been taken against an employee, the facility is required to prohibit continued employment. This is also true of any conviction in a court of law for child or client (resident, patient) abuse, neglect or mistreatment. Therefore, conviction for abusing one’s own child is also a reason employment would be prohibited.

The definition of “mistreatment” under the guideline at W153 includes financial exploitation. Therefore, if an employee was convicted or had a prior employment history of theft of an individual’s funds, that would also be a reason employment would be prohibited.

Access other information, as appropriate, including information contained in “closed” records, in order to adequately evaluate compliance.

483.420(d)(2) The facility is responsible for reporting any injuries of unknown origin and any allegations of mistreatment to an individual residing in the facility regardless of who is the perpetrator (e.g., facility staff, parents, legal guardians, volunteer staff from outside agencies serving the individual, neighbors, or other individuals, etc.).
483.420(d)(3) The facility is responsible for investigating all injuries of unknown origin and must prevent further potential abuse while the investigation is in progress.

483.420(d)(4) Some States require that allegations of abuse must be reported to the police. CMS cannot regulate the activities of the police. However, if the police take longer than five working days for their investigation, the facility is still required to complete an internal investigation report of findings within the five day timeframe. “Working days” means Monday through Friday, excluding State and Federal holidays.

483.420(d)(4) This requirement refers to corrective action taken based upon findings of investigations of incidents which have occurred within the jurisdiction of the facility. It requires that the seriousness of infractions be weighed in the determination of what action is necessary by the facility to correct the situation appropriately. In cases of abuse, neglect or mistreatment by staff, where extenuating circumstances exist and dependent on the nature of the infraction, a remedy that is consistent with appropriate progressive disciplinary measures may be acceptable. When the intentional action or inaction of a staff person has resulted in abuse, neglect or mistreatment which poses a serious and immediate threat to individuals’ health and safety, termination of employment is the only acceptable corrective action.

Appropriate corrective action is also required for findings of abuse, neglect or mistreatment by other individuals residing in the facility, staff of outside agencies, parents or any other person, and for injuries to individuals resulting from controllable environmental factors.

Appropriate corrective action is defined as that action which is reasonably likely to prevent the abuse, neglect, mistreatment or injury from recurring.

When an employee appeals a finding of abuse by the facility, whether through arbitration or in a court of law, the decision of the arbitrator or the court of law is then considered the final finding. If the arbitrator found that the charges lacked substance, the allegation would be considered unsubstantiated. The facility, however, is still required to ensure that individuals residing in the facility are not subjected to physical, verbal, sexual or psychological abuse or punishment by W127.

An arbitrator may find that the allegation of abuse is substantiated, but impose a lesser penalty than that which was sought by the facility. For example, the facility may seek termination of employment as the appropriate corrective action but the arbitrator determines that a 10 day suspension is more appropriate. The facts of the situation will have to be evaluated by the surveyor and a judgment made regarding appropriateness. Therefore, while the facility is permitted by the regulation to exercise judgment regarding appropriate corrective action, the surveyor must also exercise judgment and may determine that the corrective action is NOT reasonably likely to prevent the abuse from recurring.

483.430(a) View the person serving in the QMRP role as pivotal to the adequacy of the program the individual receives, since it is this role that is intended to ensure that the individual receives those services and interventions necessary by competent persons capable of delivering them. The paramount importance of having persons competent to judge and supervise active treatment issues cannot be overstated.

An individual’s IPP may be coordinated and monitored by more than one QMRP or by other staff persons who perform the QMRP duties. There must, however, be one QMRP who is assigned primary responsibility and accountability for the individual’s IPP and the QMRP function.

The regulations do not specify if the person designated as QMRP must do the duties of a QMRP exclusively, or is allowed to perform other professional staff duties in addition. The facility has the flexibility to allocate staff resources in whatever manner it believes is necessary as long as it ensures that the QMRP function is performed effectively for each individual.

The test of whether the number of QMRPs is adequate rests with the ability of the facility to provide the services described in §483.430(a) in an effective manner. The number will vary depending on such factors as the number of individuals the facility serves, the complexity of needs manifested by these individuals, the number, qualifications and competencies of additional professional staff members, and whether or not other duties are assigned to the QMRP function.

483.430(b)(1) For an active treatment program to be responsive to the individual’s unique needs, there must be a foundation of competent professional knowledge that can be drawn upon in the implementation
of the interdisciplinary team process. Individuals with developmental deficits will require initial, temporary, or ongoing services from professional staff, knowledgeable about contemporary care practices associated with these areas. A special mention needs to be made that individuals should not be provided with services that are not needed (e.g., if an individual is basically healthy and not on medication, then the individual should not be provided extensive health and health-related services).

The needs identified in the initial comprehensive functional assessment, as required in §483.440(c)(3)(v), should guide the team in deciding if a particular professional’s further involvement is necessary and, if so, to what extent professional involvement must continue on a direct or indirect basis.

Since such needed professional expertise may fall within the purview of multiple professional disciplines, based on overlapping training and experience, determine if the facility’s delivery of professional services is adequate by the extent to which individuals’ needs are aggressively and competently addressed. Some examples in which professional expertise may overlap include:

- Physical development and health: nurse (routine medical or nursing care needs that do not interfere with participation in other programs); physician, physician assistant, nurse practitioner (acute major medical intervention, or the treatment of chronic medical needs which will be dependent upon an individual’s success or failure in other treatment programs).
- Nutritional status: nurse (routine nutritional needs that do not affect participation in other programs); nutritionist or dietitian (chronic health problems related to nutritional deficiencies, modified or special diets).
- Sensorimotor development: physical educators, adaptive physical educators, recreation therapists, (routine motor needs involving varying degrees of physical fitness or dexterity); special educators or other visual impairment specialists (specialized mobility training and orientation needs); occupational therapist, physical therapist, physiatrist (specialized fine and gross motor needs caused by muscular, neuromuscular, or physical limitations, and which may require the therapeutic use of adaptive equipment or adapted augmentative communication devices to increase functional independence); dietitians to increase specialized fine and gross motor skills in eating.
- Affective (emotional) development: special educators, social workers, psychologists, psychiatrists, mental health counselors, rehabilitation counselors, behavior therapists, behavior management specialists.
- Speech and language (communication) development: speech-language pathologists, special educators for people who are deaf or hearing impaired.
- Auditory functioning: audiologists (basic or comprehensive audiologic assessment and use of amplification equipment); speech-language pathologists (like audiologists, may perform aural rehabilitation); special educators for individuals who are hearing impaired.
- Cognitive development: teacher (if required by law, i.e., school aged children, or if pursuit of GED is indicated), psychologist, speech-language pathologist.
- Vocational development: vocational educators, occupational educators, occupational therapists, vocational rehabilitation counselors, or other work specialists (if development of specific vocational skills or work placement is indicated).
- Social Development: teachers, professional recreation staff, social workers, psychologists (specialized training needs for social skill development).
- Adaptive behaviors or independent living skills: Special educators, occupational therapists.

483.430(b)(1) There are some individuals in ICFs/MR who can often have their needs effectively met without having direct contact with professional staff on a daily basis. The intent of the requirement is not to require that professionals work directly with individuals on a daily basis, but only as often as an individual’s needs indicate that professional contact is necessary. The amount and degree of direct care that professionals must provide will depend on the needs of the individual and the ability of other staff to train and direct individuals on a day-to-day basis.

483.430(b)(2) If there is sufficient evidence that para- and non-professional staff demonstrate the needed competencies to carry through with intervention strategies, you may be satisfied there is sufficient professional staff to carry out the active treatment program. However, if the professional’s expertise is
not demonstrable at the para- and non-professional staff level, question both the numbers of professional staff and the effectiveness of the transdisciplinary training of para- and non-professional staff.

483.430(b)(3) “Participate” means providing input through whatever means is necessary to ensure that the individual’s IPP is responsive to the individual’s needs. The purpose of the interdisciplinary team process is to provide team members with the opportunity to review and discuss information and recommendations relevant to the individual’s needs, and to reach decisions as a team, rather than individually, on how best to address those needs. Therefore, determine whether or not there is a pattern of active treatment based on professional participation in the process.

Without a negative outcome to demonstrate that professional involvement in any aspect of the active treatment process (e.g., comprehensive functional assessment, IPP development, program implementation, etc.) was insufficient or inaccurate, the facility is allowed the flexibility to use its resources in a manner that works in behalf of the client, in accordance with the regulations.

483.430(b)(4) “Participate” means both seeking out self-training and provision of training to others.

483.430(b)(5)(i)-(ix) The introductory phrase “to be designated as…” means that a provider is allowed to represent him or herself as a professional provider in that discipline, only if the provider meets State licensing requirements, or if the particular discipline does not fall under State licensure requirements, the provider meets the qualifications specified in §§483.430(b)(5)(i)-(ix). A person who is not qualified, for example, as a social worker, may not be referred to as a social worker per se. Nevertheless, such a person may be able to provide social services in an ICF/MR if there is no conflict with State law, and as long as the individuals’ needs are met.

483.430(b)(5)(ix) The Commission on Dietetic Accreditation of the American Dietetic Association is the organization to whom the American Dietetic Association delegates this responsibility.

483.430(b)(5)(x) The intent for including a “human services professional” category is to expand the number and types of persons who could qualify as QMRPs, while still maintaining acceptable professional standards.

“Human services field” includes all the professional disciplines stipulated in §§483.430(a)(3)(i)(ii) and §§483.430(b)(5)(i)-(ix), as well as any related academic disciplines associated with the study of: human behavior (e.g., psychology, sociology, speech communication, gerontology etc.), human skill development (e.g., education, counseling, human development), humans and their cultural behavior (e.g., anthropology), or any other study of services related to basic human care needs (e.g., rehabilitation counseling), or the human condition (e.g., literature, the arts).

An individual with a “bachelors degree in a human services field” means an individual who has received: at least a bachelor’s degree from a college or university (master and doctorate degrees are also acceptable) and has received academic credit for a major or minor coursework concentration in a human services field, as defined above. Although a variety of degrees may satisfy the requirements, majors such as geology and chemical engineering are not acceptable.

Taking into consideration a facility’s needs, the types of training and coursework that a person has completed, and the intent of the regulation, the facility and you can exercise wide latitude of judgment to determine what constitutes an acceptable “human services” professional. Again, the key concern is the demonstrated competency to do the job.

483.430(c)(1) Volunteers may provide supplementary services. The facility may not rely on volunteers to fill required staff positions and perform direct care services.

Examine closely the adequacy of staffing when individuals served are engaged in the care, training, treatment or supervision of other individuals, either as part of training, “volunteer work,” or normal daily routines. (See W131-W132 for additional interpretation of productive work done as a “volunteer” or as part of the individual’s active treatment program.) The test of adequacy is whether or not there is sufficient staff to accomplish the job in the absence of the individual’s work. Work done as part of an active treatment training program requires that the staff are monitoring and teaching new skills as part of the IPP.

483.430(c)(2) The test of adequacy about “awake” staffing is how well the facility has organized itself to detect and react to potential emergencies, such as fire, injuries, health emergencies described in the
medical care plan (e.g., aspiration, cardiac or respiratory failure, uncontrolled seizures) and behavioral crises described in the IPP.

483.430(c)(3) The intent of the regulation is that at all times a staff person is in a position to help if individual needs arise. For purposes of this provision, “on duty” staff need not be awake during normal bedtime hours.

Facilities sending some or all of the individuals to out of home or off grounds active treatment programs for a majority of the day need not provide a full complement of direct care staff in the residence during their absence. However, a minimum of one staff person must be on duty, if even one individual is present.

483.430(c)(4) “Support staff” include all personnel hired by the facility that are not either direct care staff or professional staff. For example, support staff include, but are not limited to, secretaries, clerks, housekeepers, maintenance and laundry personnel.

Direct care staff should be utilized at their highest level of competence, but they may assume other roles as long as their ability to exercise their primary direct care duties is not diluted. For example, direct care staff may serve as aides in a training program during the hours individuals are away from the living unit.

483.430(d)(1) “Sufficient” direct care staff means the number of staff, over and above the ratios specified in §483.430(d)(3), necessary to implement active treatment, as dictated by the individual’s active treatment needs.

Do not look at numbers alone. The facility is responsible for organizing and evaluating its individual appointments, programming schedules, activities, materials, equipment, grouping assignments and available staff in such a way that maximizes benefit to the individual. During the course of the onsite survey, you should be able to observe behavioral evidence of such organization. Evaluate this data in light of the success or failure observed relevant to providing active treatment, and come to a judgment about the adequacy of the facility’s staffing.

483.430(d)(2) “Direct care staff” are those personnel whose daily responsibility it is to manage, supervise and provide direct care to individuals in their residential living units. This staff could include professional staff (e.g., registered nurses, social workers) or other support staff, if their primary assigned daily shift function is to provide management, supervision and direct care of individuals’ daily needs (e.g., bathing, dressing, feeding, toileting, recreation and reinforcement of active treatment objectives) in their living units. However, professional staff who simply work with individuals in a living unit on a periodic basis cannot be included. Also, supervisors of direct care staff can be counted only if they share in the actual work of the direct care of individuals. Supervisors whose principal assigned function is to supervise other staff cannot be included.

483.430(d)(3) The minimum ratios in this standard indicate the minimum number of direct-care staff that must be present and on duty, 24 hours a day, 365 days a year, for each discrete living unit. It does not include anyone functioning as direct care staff. For example, to calculate the minimum number of living unit staff that must be present and on duty in a discrete living unit serving 16 individuals with multiple disabilities: divide the number of individuals “16,” by the number corresponding to the regulation “3.2,” the result equals “5.” Therefore, the facility must determine how many staff it must hire to ensure that at least 5 staff will be able to be present and on duty during the 24 hour period in which those individuals are present.

Using the living unit described above, “calculated over all shifts in a 24-hour period” means that there are present and on duty every day of the year: one direct care staff for each eight individuals on the first shift (1:8), one direct care staff for each eight individuals on the second shift (1:8), and one direct care staff for each 16 individuals on the third shift (1:16). Therefore, there are five (5) direct care staff present and on duty for each twenty-four hour day, for 16 individuals. The same calculations are made for the other ratios, whichever applies. Determine if absences of staff for breaks and meals results in a pattern of prolonged periods in which present and on-duty staff do not meet the ratios.

483.430(e)(2) View in-service training as a dynamic growth process. It is predicated on the view that all levels of staff can share competencies which enable the individual to benefit from the consistent, wide-spread application of the interventions required by the individual’s particular needs.
In the final analysis, the adequacy of the in-service training program is measured in the demonstrated competencies of all levels of staff relevant to the individual’s unique needs as well as in terms of the “affective” characteristics of the caregivers and the personal quality of their relationships with the individuals. Observe the staff’s knowledge by observing the outcomes of good transdisciplinary staff development (i.e., in the principles of active treatment) in such recommended competencies as:

- Respect, dignity, and positive regard for individuals (e.g., how staff refers to individuals, refer to W150);
- Use of behavioral principles in training interactions between staff and individuals;
- Use of developmental programming principles and techniques, e.g., functional training techniques, task analysis, and effective data keeping procedures;
- Use of accurate procedures regarding abuse detection and prevention, restraints, medications, individual safety, emergencies, etc.;
- Use of adaptive mobility and augmentative communication devices and systems to help individuals achieve independence in basic self-help skills; and
- Use of positive behavior intervention programming.

483.430(e)(3) Observe staff interactions with individuals to see if the specific interventions, techniques and strategies to change inappropriate behavior outlined in the sampled individual’s program plans are correctly implemented. In the absence of implementation, investigate further to determine if there was a justifiable reason for not implementing an intervention (e.g., the plan was revised, the specific situation demanded a different approach, the conditions for use of a particular technique were not present, etc.). When staff are unable to demonstrate how to correctly implement an intervention, or are unable to explain when and how the intervention is to be implemented, inadequate training is evident.

483.430(e)(4) Observe whether or not staff are competent and knowledgeable about the needs, programs and progress of each sampled individual with whom they are assigned to work. Staff should be able to demonstrate in practice the results of training for the individuals for whom they are responsible. See guidelines at §483.430(e)(3).

483.440(a)(1) “Continuous” is defined to mean the competent interaction of staff with individuals served at all times, whenever the need arises or opportunities present, in both formal and informal settings.

Verify that active treatment is identifiable during formal and informal interactions between staff and individuals served. The performance of the individual should reflect the success, if any, of interventions being applied or the need to alter the intervention procedures.

The ICF/MR ensures that each individual receives active treatment daily regardless of whether or not an outside resource(s) is used for programming (e.g., public school, day habilitation center, senior day services program, sheltered workshop, supported employment).

Those “active” interventions necessary to prevent or decelerate regression are considered to be part of the overall active treatment program. For example, if the application of a specific stimulation technique to the area of the mouth of an individual with severe physical and medical disabilities, decelerates the individual’s rate of reliance on tube-feedings, and helps the individual retain ability to take food by mouth, then this intervention is considered to be a component of active treatment for the individual.

Active treatment for elderly individuals may increasingly need to focus on interventions and activities which promote physical wellness and fitness, socialization and tasks that stress maintaining coordination skills and reducing the rate of loss of skills that accompanies the physical aspects of the aging process. Attending a senior center may be a justifiable part of an active treatment program for an elderly person.

Active treatment is the sum total of the major components of the active treatment process or loop which make up the requirements under this Condition of Participation (i.e., assessment, individual program planning, implementation, program documentation, program monitoring and change). It defines the primary nature of the services which must be provided by a facility (and received by its clients) in order to make it eligible under the law to be “certified” as an ICF/MR. Active treatment results in the positive outcomes identified by the Condition-level compliance principles. Surveyors must examine and evaluate all negative findings related to active treatment, and if determined to be significant, those findings should be cited at the salient tag numbers related to each of the components.
of the active treatment process. When review of those deficiencies leads to the conclusion that active treatment is not being received, then this standard and the explicit statutory requirement for active treatment at §1905(d)(2) of the Social Security Act are not met. A determination of noncompliance with this requirement, therefore, must also result in a determination of noncompliance at the Condition of Participation level for Active Treatment Services and at §440.150(c), tag number W100.

Although the active treatment process must be identifiable in documentation, it must be observable in daily practice. Determine how the ICF/MR accomplishes (or fails to accomplish) an environment of competence that enables active treatment to occur.

483.440(a)(2) The regulations define the target population eligible for the ICF/MR benefit, by defining the services that are required for a facility to provide in order for it to qualify as an ICF/MR and receive Federal Financial Participation (FFP). At the front end, one of the “required services” is training in basic fundamental skills. The type of skills described in W242, by their very nature, target a population who have significant deficits in growth and development.

The presence of any group of individuals (court-ordered or not), could call into question the overall nature of the services provided by the ICF/MR. Individuals displaying some or all of the characteristics described in the Interpretive Guideline at §483.440(b)(1), do not “need active treatment services” or ICF/MR level of care, and are not appropriately placed. Agencies which provide residential services to persons with mental retardation do not qualify automatically for participation in Medicaid as ICFs/MR. Although the facility may be providing services to meet the needs of these types of individuals, the services provided by the facility do not meet the regulatory definition of “active treatment.”

Furthermore, if the primary purpose of the facility is no longer to provide services to persons with mental retardation or related conditions who are in need of active treatment, then the facility does not meet the statutory requirement at §1905(d) of the Social Security Act and the regulatory definition of an ICF/MR, and therefore cannot be certified. A determination of noncompliance with this requirement, therefore, must result in a determination of noncompliance at the Condition of Participation level and at §440.150(c).

Conversely, if the overall facility meets the definition of an ICF/MR, the law does tolerate the presence of a few individuals for whom payment cannot be claimed. If an entity must serve both people who are generally independent and people who are in need of active treatment, then the entity may need to consider establishing a distinct part ICF/MR to serve those individuals who are in need of active treatment.

Negative findings about active treatment with regard to generally independent clients may be in conflict with level of care determinations made by State inspection of care (IOC) teams. Bring these negative active treatment findings to the attention of the IOC agency within the State for appropriate disposition of Medicaid ICF/MR certification. (See also W198, if the negative findings involve newly admitted individuals.)

There are some individuals who need the help of an ICF/MR to continue to function independently because they have learned to depend upon the programmatic structure it provides. The fact that they are not yet independent, even though they can be, makes it appropriate for them to receive active treatment services directed at achieving needed and possible independence.

483.440(b)(1) Individuals with the following characteristics do not necessarily require a continuous active treatment program in order to function or to achieve optimal independence. Review closely to what extent the ICF/MR serves individuals, who in the aggregate:

- Are independent without aggressive and consistent training;
- Are usually able to apply skills learned in training situations to other settings and environments;
- Are generally able to take care of most of their personal care needs, make known to others their basic needs and wants, and understand simple commands;
- Are capable of working at a competitive wage level without support, and to some extent, are able to engage appropriately in social interactions;
- Are engaged in productive work within the facility which is done at an acceptable level of independence (i.e., not done as part of a training program to teach the individual new skills);
• Are able usually, to conduct themselves appropriately when allowed to have time away from the facility’s premises; and

• Do not require the range of professional services or interventions in order to make progress.

Based on the order of a court, the ICF/MR may be required to admit individuals who do not need active treatment. Although CMS has no jurisdiction to prevent the courts from ordering the placements of such individuals into institutions certified as ICFs/MR, the individuals, by definition, would be ineligible to be classified by Medicaid for the ICF/MR benefit. To the extent that the placement of these court-ordered individuals does not interfere with the ability of the ICF/MR to provide active treatment for its individuals, the facility’s overall certification is not affected.

483.440(b)(2) No admission should be regarded as permanent. Readmission of an individual to the ICF/MR falls under the same requirements as initial admission.

In the absence of State regulations designating the person(s) authorized to approve admission (e.g., State or Regional Admissions Committees), the decision to admit an individual to the ICF/MR is based on the findings of an interdisciplinary team, including a QMRP.

Occasionally, emergency admissions of individuals may occur without benefit of a preliminary evaluation having been conducted prior to admission. For purposes of §483.440(b)(2) and consistent with §456.370(a), this requirement will be considered as “met” at such time that an evaluation is conducted which supports the need for an individual’s placement in the ICF/MR. Refer to W210.

483.440(b)(3) The facility must decide, based on objective data, whether or not needs can be met. In some cases, the facility may be required to meet the “reasonable accommodation” requirement of the Americans with Disabilities Act. Failure to admit individuals merely because they have a particular medical condition may constitute a civil rights violation. All such instances should be reported to the Office of Civil Rights for investigation.

483.440(b)(4)(i) “Transfer” means the temporary movement of an individual between facilities, the temporary movement from the ICF/MR to a psychiatric or medical hospital for medical reasons, the permanent movement of an individual between living units of the same facility, or the permanent movement of an entire facility (including individuals served, staff and records) to a new location. “Discharge” means the permanent movement of an individual to another facility or setting which operates independently from the ICF/MR. Moving an individual for “good cause” means for any reason that is in the best interest of the individual.

483.440(b)(4)(ii) The family and the individual should be involved in any decision to move an individual, since this decision generally, should be part of a team process that includes the individual or guardian. If an individual has an advocate, the advocate should participate in the decision-making process.

483.440(b)(5)(ii) The discharge plan required by 42 CFR 456.380 and the post-discharge plan of care are the same. The regulations require only one discharge plan which meets the requirements.

483.440(c)(1) There is no “correct” number of individuals who comprise the interdisciplinary team. The regulation also does not specify the professional disciplines which make up the interdisciplinary team. Based upon outcomes, assess whether the expertise available to the team was appropriate to meet the needs of the individual.

The facility must make every effort to coordinate the IEP or program plan from an outside day program with the IPP process. This may result in a single IEP/IPP document, but there is no requirement for the IPP to be one document. The “collective” IPP must contain the information required under the regulations, and observation should confirm integration of the IPP across the various settings.

Negative answers to the following probes may indicate a lack of input from appropriate team members. Evaluate findings for systemic lack of input by a particular team member, lack of communication among team members, or lack of team effort and cooperation.

483.440(c)(2) Meetings should be scheduled and conducted to facilitate the participation of all members of the team, but especially the individual, unless he or she is clearly unable or unwilling, the individual’s parents (except in the case of a competent adult who does not desire them to do so) or the individual’s guardian or legal representative. The ICF/MR is expected to pursue aggressively the attendance of all relevant participants at the team meeting, (e.g., a conference call with a consultant during deliberations meets this requirement). Question routine “unscheduled” absences by individuals, guardians and
particular disciplines or consultants, and determine the impact on effectiveness and responsiveness of the IPP to meet the individual’s needs.

483.440(c)(3) “Accurate” assessments refer to assessment data that are current, relevant and valid, and that the skills, abilities, and training needs identified by the assessment correspond to the individual’s actual status. Additionally, for assessment data to be accurate, the cultural background and experience of the individual must be reflected in the choice, administration and interpretation of the evaluation(s) used. A few examples of appropriate adaptations might be: specialized equipment, use of an interpreter, use of manual communication, tests designed to measure performance in the presence of visual disability, etc.

The contents of assessments or the particular assessment which must be used are not specified. A nursing assessment, for example, would not need to reference all domains, or a psychiatric or psychological evaluation would not necessarily have to be based on a particular “tool.” Similarly, the results of the comprehensive assessment are not required to be written into a narrative report(s). Verify that the tests, evaluations, etc. that comprise the comprehensive functional assessment, yield data that are accurate, reflect the current status and needs of the individual, and can serve as a functional basis for an IPP to be developed.

483.440(c)(3) The active treatment assessment process should be sensitive to the behaviors of individuals throughout their life span. For example, infants and toddlers are expected to engage in more play-related, exploratory activities, adolescents are expected to engage in activities of increasingly greater responsibility in preparation for adulthood, adults are expected to support themselves or at least be engaged in training or education activities toward that end, and elderly citizens, are expected to choose whichever form of productive activity meets their needs and interests (employment, handiwork, pursuit of leisure, etc.) for as long as they are able.

483.440(c)(3)(i) In the presence of a diagnoses (medical or otherwise), evaluation data must be available to support the determination.

483.440(c)(3)(ii-iii) The comprehensive functional assessment (CFA) may be a report synthesizing the results of salient assessments or a series of reports. If individual reports are utilized, the complete diagnostic work-up or problem list identified by others is not required to be repeated unless it is relevant to the particular assessment. Findings are recorded in terms that facilitate clear communication across disciplines. Diagnoses or imprecise terms and phrases (including, but not limited to, “grade level,” “age level,” “developmental level,” “good attending skills,” and “poor motor ability”) in the absence of specific terms, are not acceptable.

Assessment of the behavior assumed to be maladaptive should include analyses of the potential causes, such as lack of exposure to positive models and teaching strategies, lack of ability to communicate needs and desires, lack of success experiences, a history of punishing experiences, presence of a physiological condition, or other environmental or social conditions which may elicit or sustain the behavior.

Specific “developmental” strengths and needs describe what the individual “can” and cannot do.

483.440(c)(3)(iv) In the presence of significant developmental deficits, it is not acceptable for the comprehensive evaluation to identify that a particular professional therapy or treatment is not needed. To meet the requirement for “need for service,” the assessment must identify the course of specific interventions recommended to meet the individual’s needs in lieu of direct professional therapy or treatment.

483.440(c)(3)(v) The facility must assess in developmental areas, but not by professional disciplines unless the functional assessment shows a need for a full professional evaluation. Findings relative to the domains required under §483.440(c)(3)(v) include, but are not limited to:

483.440(c)(3)(v) 1. Physical development and health. Physical development includes the individual’s developmental history, results of the physical examination conducted by a licensed physician, physician assistant, or nurse practitioner, health assessment data (including a medication and immunization history), which may be compiled by a nurse, and skills normally associated with the monitoring and supervision of one’s own health status, and administration and or scheduling of one’s own medical treatments. When indicated by physical examination results, consultations by specialists are provided
or obtained. The need for advance directives or do not resuscitate (DNR) orders may be assessed on a case-by-case basis, as part of this area by individuals qualified to do so.

483.440(c)(3)(v) 2. Nutritional status. Nutritional status includes determination of appropriateness of diet, adequacy of total food intake, and the skills associated with eating, (including chewing, sucking and swallowing disorders), food service practices, and monitoring and supervision of one’s own nutritional status.

483.440(c)(3)(v) 3. Sensorimotor development. Sensory development includes the development of perceptual skills that are involved in observing the environment and making sense of it. Motor development includes those behaviors that primarily involve: muscular, neuromuscular, or physical skills and varying degrees of physical dexterity. Because sensory and motor development are intimately related, and because activities in these areas are functionally inseparable, attention to these two aspects of bodily activity is often combined in the concept of sensorimotor development. Assessment data identify the extent to which corrective, orthotic, prosthetic, or support devices would impact on functional status.

483.440(c)(3)(v) 4. Affective (Emotional) development. Affective or emotional development includes the development of behaviors that relate to one’s interests, attitudes, values, and emotional expressions.

483.440(c)(3)(v) 5. Speech and language (communication) development. Communication development refers to the development of both verbal and nonverbal and receptive and expressive communication skills. Assessment data identify the appropriate intervention strategy to be applied, and which, if any, augmentative or assistive devices will improve communication and functional status.

483.440(c)(3)(v) 6. Auditory functioning. Auditory functioning refers to the extent to which a person can hear and to the maximum use of residual hearing if a hearing loss exists and whether or not the individual will benefit from the use of amplification, including a hearing aid or a program of amplification. An individual’s treatment might need to include being desensitized to tolerate the use of a hearing aid or assistive listening device to prevent the device from being rejected or destroyed. Assessment may include teaching techniques for conducting the assessment or the use of electrophysiologic techniques.

483.440(c)(3)(v) 7. Cognitive development. Cognitive development refers to the development of those processes by which information received by the senses is stored, recovered, and used. It includes the development of the processes and abilities involved in memory, reasoning and problem solving.

483.440(c)(3)(v) 8. Social Development. Social development refers to the formation of those self-help, recreation and leisure, and interpersonal skills that enable an individual to establish and maintain appropriate roles and fulfilling relationships with others.

483.440(c)(3)(v) 9. Adaptive behaviors or independent living skills. Adaptive behavior refers to the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected of their age and cultural group. Independent living skills include, but are not limited to, such things as meal preparation, doing laundry, bed-making, and budgeting. Assessment may be performed by anyone trained to do so. Standardized tests are not required. Standardized adaptive behavior scales which identify all or predominantly all “developmental needs” are not sufficient enough to meet this requirement, but can serve as a basis for screening.

483.440(c)(3)(v) 10. Vocational (prevocational) development, “as applicable.” Vocational development refers to work interests, work skills, work attitudes, work-related behaviors, and present and future employment options. The determination of whether or not a vocational assessment is “applicable” is typically based on age (adolescents or adults more than likely require this type of assessment).

483.440(c)(4) The presence of a comprehensive list of behaviorally stated needs is acceptable for this portion of the requirement. “Comprehensive” means that objectives are stated for the needs identified in each domain included in the comprehensive functional assessment.

Objectives may address services to be provided, learning/treatment needs, adaptive equipment, etc., §§483.440(c)(4)(i)-(v) regulate requirements for current IPP training objectives (as opposed to staff, service, or long term objectives).
Validate that the needs identified by the team are appropriate for the individual based upon review of the comprehensive functional assessment data, observations, and interviews with the individual and staff.

483.440(c)(4) To organize objectives into a planned sequence the ICF/MR must consider the outcomes it projects for the individual in the long term. For example, if the long term objective is for the individual to travel independently in the community, the planned sequence may involve training the individual to recognize traffic signs, cross a street safely, and to obtain help when needed if lost or an emergency arises. Interview staff to discover the purpose to be achieved upon completion of the objective. For example, does staff know why an individual is taught to stack rings?

483.440(c)(4)(i) “Single” behavioral outcome means that for each discrete behavior that the team intends the individual to learn a separate objective is assigned. (For example, “Mary will bake a cake and clean the oven” are two separate behaviors and, therefore, should be stated in two separate objectives.) Performance of a series of separate behaviors could constitute a single behavioral outcome when appropriate for the individual. For example, completing a hygiene routine of face washing, tooth-brushing and hair-combing is one behavioral outcome when the individual is able to perform each of those skills, but needs to learn to complete the entire routine each morning.

483.440(c)(4)(ii) The “projected date of completion” for an IPP objective is not the same as a “review” date. For each objective assigned priority, the team should assign a projected date (month and year) by which it believes the individual will have learned the new skill, based on all of the assessment data. This date triggers the team to evaluate continuously whether or not the individual’s progress or learning curve is sufficient to warrant a revision to the training program. There is no requirement to identify an implementation date for each objective in the plan.

483.440(c)(4)(iii) “Behavioral” terms include only those behaviors which are “individual” rather than “staff” oriented and those that any person would agree can be seen or heard. Determine if all staff who work with the individual can define the exact same outcome on which to measure the individual’s performance. “Measurable indices of performance” are the quantifiable criteria to use in determining successful achievement of the objective. Criteria include various measurements of intensity and duration. For example, “M. will walk ten feet, with her tripod walker, for 5 consecutive days.”

483.440(c)(4)(iv) To organize an objective in an appropriate progression, the ICF/MR must consider the person’s current functional abilities and project what steps, methods and strategies are likely to be effective in achieving the objective. Baseline data are one means of establishing an appropriate starting point for an objective. Objectives must be adapted based upon the person’s functional abilities. For example, if the objective is to learn to put on shoes independently and the person does not have the manual dexterity to tie shoe laces, then the objective could include the use of slip-on shoes or shoes with velcro closures in order to facilitate the person learning this skill.

483.440(c)(4)(v) After all the training objectives have been established as required by W227, the IPP identifies those objectives which the team considers to be most important, or which need to be implemented before others can be accomplished, and then assigns them priority. Some examples of assigning priority include, but are not limited to, rank ordering (most important to least important), assignment of “priority” or “non-priority,” etc.

483.440(c)(5) The written training program refers only to those objectives to which the team has assigned priority status for formal implementation.

483.440(c)(5)(iii) This may or may not be the same person who implements the program. There is no requirement to identify who implements the program.

483.440(c)(5)(iv) The facility must determine the type of data necessary to judge an individual’s progress on an objective, and describe that data collection method in the written training program. The facility determines what data to collect, but the system chosen must yield accurate measurement of the criteria stated in the individual’s IPP objectives. For example, if the criteria in the individual’s IPP objective specified some behavior to be measured by “accuracy,” or “successes out of opportunities,” then it would not be acceptable for the prescribed data collection method to record “level of prompt.”

Methods of data collection on IPP training programs should be based on the total (including direct care) facility’s staff analysis and observations of an individual’s behavior. Examples of a few data
collection systems include, but are not limited to, level of prompt, successful trials completed out of opportunities given, frequency counts, frequency sampling, etc. The facility should collect data with enough frequency and enough content that it can measure appropriately the individual’s performance toward the targeted IPP objective.

483.440(c)(6)(iii) The receipt of training targeted toward amelioration of these most basic skill deficit areas is a critical component of the active treatment program needed by individuals who are eligible for the ICF/MR benefit, and therefore, is a required ICF/MR service. Some ADL skills overlap with each other (e.g., personal hygiene, oral hygiene, grooming and bathing). It is acceptable for the interdisciplinary team to set priorities within these overlapping skills. It must be clear, however, that the facility has organized its services to emphasize training in these areas. This will be seen not only in the IPP, but also in the competent interaction of staff with individuals, in both formal and informal settings. This basic skill training defines the nature of ICF/MR services. To the extent that individuals demonstrate that they increasingly do not need the types of services described in this requirement, and increasingly correspond to the characteristics of clients described at W197 such that the “overall” nature of the facility services would not be required to provide the type of emphasis described at W242, question the appropriateness of the individual’s placement in an ICF/MR and/or the certification of the facility as an ICF/MR (see W197 and W198).

“Training” as used in this regulation means:

1. Aggressive implementation of a systematic program of formal and informal techniques (competent interactions);
2. Continuously targeted toward the individual achieving the measurable behavioral level of skill competency specified in IPP objectives;
   - Conducted in all applicable settings; and
   - Conducted by all personnel involved with the client.

“Developmental incapability” is a decision to be made by the interdisciplinary team based on its assessment of the individual’s developmental strengths and needs. For example, there is ample evidence that even individuals with the most severe physical and mental disabilities can be toilet trained. Recognition is given to the fact that some individuals, however, have insufficient sensory and neuromuscular control ever to be totally independent in toileting skills. For most of this group, there are intermediate steps which can be achieved, including toilet scheduling, in which the individual is able to be trained to a schedule of elimination with needed assistance from staff. The intent of the toileting part of this regulation is met if there is evidence that the individual has been provided an aggressive, well organized, and well executed toilet training program in the past and that the team determines the individual’s “developmental incapability.”

483.440(c)(6)(iv) Mechanical devices used to support an individual’s proper body position or alignment may be essential to prevent contractures and deformities, but the staff should be sensitive to the fact that mechanical supports may restrict movement and the individual should not be in the supports all the time or as a substitute for programs or therapy which may reduce the dependency on the support. Some supports allow movement and provide opportunity for more increased functioning. Some examples of devices used as mechanical supports include splints, wedges, bolsters, lap trays, etc.

Wheelchairs are not generally used to position or align the body and would not alone constitute a mechanical support. However, adaptations to wheelchairs which do position or align the body would have to be specified according to this requirement. Adaptations to a wheelchair which facilitate correct body alignment by inhibiting reflexive, involuntary motor activity are also mechanical supports.

483.440(c)(6)(v) With the exception of those individuals who are acutely ill (such as those who are hospitalized or incapacitated by a short term illness), all individuals should be out of bed and outside their bedroom area as long as possible each day, and in proper body alignment at all times. This is a necessity in order to prevent regression, contractures, and deformities and to provide sensory stimulation.

Question patterns of bed rest “orders” or “scheduled” bed rest as a routine part of an individual’s program. A nap period of an hour, for example, is not “bed rest.” However, if the ICF/MR, as a general pattern of scheduling, expects an individual to be one - two hours in bed in the morning, one - two hours in bed in the afternoon, and an 8:00 p.m. bedtime in the evening, for example, then the practice becomes
“bed rest,” and the intent of the regulation will more than likely not be met. Question seriously large amounts of time during which a resident is confined to bed.

483.440(c)(6)(vi) Due to the basic underlying importance “choice” plays in the quality of one’s life, the ICF/MR should maximize daily activities for its individuals in such a way that varying degrees of decision-making can be practiced as skills are acquired. Examples of some activities leading toward responsibility for one’s own self-management include, but are not limited to, choosing housing or roommates, choosing clothing to purchase or wear, choosing what to eat, making and keeping appointments, and choosing from an array of appropriate activities. Interview staff to determine how attitudes and activities of the team and consultants facilitate or impede individual choice.

Choices can be made by all individuals. The type of choices the person makes may vary from very simple to more complex, depending upon individual abilities. Look at choices in the context of the individuals served by the facility.

483.440(d)(1) For an individual newly admitted to the ICF/MR, the time period between admission and the 30 day interdisciplinary team meeting should be primarily for purposes of assisting the individual to become adjusted and acclimated to his or her new living environment and completing the functional assessment. During this time period the facility should also be providing those services and activities determined during the pre-admission assessment as essential to the individual’s daily functioning. In order to be able to produce the comprehensive assessment, the facility must evaluate the individual’s status in as many naturally occurring, functional environments as possible.

It must be clear that the active treatment program received by the individual is internally consistent and not simply a series of disconnected formal intervention applications within certain scheduled intervals.

The criteria of what constitutes a “sufficient number and frequency of interventions” are based on the individual’s assessment and the progress the individual makes toward achieving IPP objectives.

Whether “structure” must be imposed by staff or whether the individual can direct his or her own activities for a period of time (without direct staff observation) is based on the individual’s ability to engage in constructive, age-appropriate, adaptive behavior (without engaging in maladaptive behavior to self or others). Be certain that an individual’s time in the home or living unit is maximized toward the further development and refinement (including self-initiation) of appropriate skills, including, but not limited to, leisure and recreation.

For the active treatment process to be effective, the overall pattern of interaction between staff and individuals must be accountable to the comprehensive functional assessment and the IPP process. During the overall observation of individuals, you should be able to track that: the individual’s comprehensive assessment identified the specific developmental need or strength justifying the activity, technique or interaction; in the case of a “need,” the team projected a measurable objective or target to address it; and the technique, interaction, or activity which is observed, produced the desired target, produced a close approximation of the target, or was modified based on the individual’s response.

483.440(d)(2) The active treatment schedule directs the intensity of the daily work of the staff and the individuals in implementation of the IPP in both informal and formal training activities. To the extent possible, the schedule provides a range of options, rather than a fixed regimen. Individuals should have opportunities to choose activities and to engage in them as independently and freely as possible. Staff routines and schedules should be supportive of this goal and result in the presence of reasonable choices by individuals. Investigate any pattern of staff action or scheduling which results routinely in all or the majority of individuals engaging in the same activity or routine at the same time. For example, everyone is out of bed, awake and dressed before staff on the third shift go home, or everyone goes to bed before the third shift arrives.

The active treatment schedule is not required to be posted.

While the facility should have the individual’s schedule from the day program, there is no requirement that this schedule and the residential schedule be merged into one document.

483.440(d)(3) The facility is responsible for ensuring that during staff time spent with individuals, the staff member is able to provide needed interventions or reinforce acquired skills in accordance with the
IPP. This is one of the ways the ICF/MR implements continuous active treatment. “All” staff includes direct care staff.

The activities of the ICF/MR are coordinated with other habilitative and training activities in which the individual may participate outside of the ICF/MR, and vice versa. 

483.440(e)(1) Data collection is evidence of individual performance and should not be taken constantly as evidence for surveyors that “treatments” occurred. “Data” are defined to be performance information collected and reported in numerical or quantifiable form on training objectives assigned priority in the IPP.

Data are those performance measurements recorded at the time the treatment, procedure, intervention or interaction occurs with the individual. They should be located in a place accessible to staff who conduct training.

483.440(e)(2) See also §483.410(c) Client Records.

483.440(f)(1)(i) - (iv) The interval within which IPP reviews are conducted is determined by the facility. However, the facility’s review system must be sufficiently responsive to ensure that the IPP is reviewed whenever the conditions specified in §§483.440(f)(1)(i-iv) occur. Information relevant to IPP changes should be recorded as changes occur.

483.440(f)(2) For the “annual” review to meet the requirement, it must be completed by at least the 365th day after the last review. The ICF/MR may be required to conduct reviews at more frequent intervals by other, more stringent regulations (e.g., 90 day reviews required by §456.380(f)(e), State regulation, etc.). The facility’s failure to comply with these other, more stringent regulations would NOT be cited under this requirement. Refer cases of suspected non-compliance to the authority having jurisdiction for the regulations in question.

483.440(f)(2) The review of the CFA applies to all evaluations conducted for an individual, unless otherwise specified in the regulation (e.g., annual physical examination). It is not required that each assessment be completely redone each year. It is required that at least annually the assessment(s) be updated when changes occur so as to accurately reflect the individual’s current status. Systematic behaviorally stated data become part of the comprehensive functional evaluation of the individual.

483.440(f)(2) Look for IPPs that are unchanged from one year to the next, for priority skills and behaviors that are deferred or ignored for one reason or the other, and for informal, vague, and programmatically worthless statements in the review (such as “John did better this year - he wasn’t as upset most of the time like he used to be”). If the ICF/MR has not been providing the individual with a systematic, behaviorally-oriented active treatment program during the year, the review will be incapable of making systematic, behaviorally-oriented statements about progress and change. If you find problem behaviors which do not decrease significantly, relatively frequent usage of restraint or other intrusive restrictive procedures, a “plateauing” (e.g., reaches partial desired performance, but does not improve over time and staff does not reassert) of skills development, or any other signs of “sameness” year after year, questions should be raised about the extent to which the ICF/MR is providing active treatment, the adequacy of IPPs, staff training, etc., particularly, if many individuals’ annual reviews reveal these characteristics.

483.440(f)(3) Depending on its size, complexity and available resources, the ICF/MR may establish one multi-purpose committee to serve it for all advisory functions, or it may establish separate single-purpose committees. The facility’s human rights committee may be shared among other agencies or the ICF/MR may utilize a human rights committee established by another governing body, e.g., a county or a statewide group, as long as all pertinent regulatory requirements are met.

The regulation does not specify the professional credentials of the “qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior.” There is no requirement that any specific disciplines, such as nurse, physician or pharmacist be members of the committee.

The intent of including “persons with no ownership or controlling interest” on the committee is to assure that, in addition to having no financial interest in the facility, at least one member is an impartial outsider in that he/she would not have an “interest” represented by any other of the required members or the facility itself. Staff and consultants employed by the facility or at another facility under the same governing body cannot fulfill this role.
Although occasional absences from committee meetings are understandable, patterns of absence by the required membership of the committee is not acceptable. At least a quorum of committee members must review, approve and monitor the programs which involve risk to client rights and protections. Depending upon the size of the facility and the number of individuals who need intrusive or restrictive techniques as a part of active treatment programs, more than one specially constituted committee may be needed to effectively meet the intent of the regulation. The facility is responsible to organize itself in a manner which permits the timely review of proposed programs.

483.440(f)(3)(i) Each individual program developed to decrease inappropriate behavior and which involves potential risk to rights and protections must be reviewed and approved by the committee prior to the program’s implementation. Some examples of programs requiring review include, but are not limited to, programs incorporating usage of restraints, aversive conditioning, any medication used to modify behavior, contingent denial of any right or “earning” of a right as part of a behavior shaping strategy, and behavioral consequences involving issues of client dignity. There is no requirement for the committee to function as a peer review for technical or clinical adequacy of plans submitted for approval. The purpose is to assure that each individual’s rights are protected through use of a group of outside individuals who are not invested in the maintenance of facility practices. The committee reviews the context by which each program is recommended, and then evaluates whether the program’s level of intrusiveness is warranted. The committee should consider factors such as whether less intrusive methods have been attempted and whether the severity of behavior outweighs the risks of the proposed program.

The committee need not reapprove a program when revisions are made, as long as those revisions are in accordance with the approved plan. For example, if the physician changes the dosage of a medication in accordance with the drug treatment component of the active treatment plan to which the legally authorized person has given consent and which has already been approved by the committee, then there is no need for the committee or the legally authorized person to reapprove the plan. (See also W263.) Generally, this would also apply if the medication was changed to another within the same therapeutic class or family. Reapproval would be needed, however, if the reason for the change was the individual’s strong untoward response to the original medication. Due to the differences in side effects and potential adverse response between drugs of a different class, reapproval would also be required if the new medication was from a different therapeutic class or family of drugs.

483.440(f)(3)(ii) Informed consent consists of permission by the legally responsible party after having been informed of the specific issue, treatment or procedure; the individual’s specific status with regard to the issue, treatment or procedure; the attendant risks and benefits; alternative forms of treatment; the right to refuse treatment and the consequences of that refusal. Informed consent implies that the person who is to give consent is competent to evaluate the decision requiring consent.

For children up to the age of 18 the parent (natural guardian) or legally appointed guardian must give consent for him or her. At the age of 18, however, children become adults and are assumed to be competent unless otherwise determined by a court.

For individuals who are minors or who are clearly incompetent, but have no appointed legal guardian, informed consent for use of restrictive programs, practices or procedures must be obtained from the legal guardian, parent or someone or some agency designated by the State, in accordance with State law; to act as the representative of the individual’s interests. Become familiar with the statutes of the State in which the ICF/MR is located to determine who or what mechanism is designated to give informed consent in such circumstances. Verify whether or not consent was obtained in accordance with law. Additionally, under these circumstances, the facility is required to identify those individuals, and expected to advocate for them by demonstrating continuing efforts to obtain timely adjudication of the individual’s legal status.

The committee must ensure that the informed and voluntary consent of the individual, parent of a minor, legal guardian, or the person or organization designated by the State is obtained prior to each of the following circumstances: the involvement of the individual in research activities, or implementation of programs or practices that could abridge or involve risks to individual protections or rights.
Informed consent should be specific, separate ("blanket" consents are not allowed), and in writing. In case of unplanned events requiring immediate action, verbal consent may be obtained, however, it should be authenticated in writing as soon as reasonably possible.

483.440(f)(3)(iii) The function of the committee is not limited to the review, approval and monitoring of restrictive behavior management practices. Examples of individual rights issues that might be reviewed by the committee, in addition to behavior management, include, but are not limited to, research proposals involving individuals, abuse, neglect and mistreatment of individuals, allegations dealing with theft of an individual's personal property or funds, damage to an individual’s goods or denial of other individual rights, individual grievances, visitation procedures, guardianship/advocacy issues, rights training programs, confidentiality issues, advance directives/DNR orders, etc.

483.450(a)(1) "Conduct between staff and clients” refers to the language, actions, discipline, rules, order, and other types of interactions exchanged between staff and individuals or imposed upon individuals by staff during an individual’s daily experiences and which affect the quality of an individual’s life.

While the regulation requires the development of written policies and procedures, the primary survey emphasis should be placed on the latter aspect of the regulation, i.e., implementation of those policies and procedures. Observations of interactions between staff and individuals should confirm that, to the maximum extent possible, individuals are provided with opportunities for growth and self-determination.

Individual’s dignity is respected by staff and their behavior is within the context of any rules of conduct which have been established.

483.450(a)(1)(iii) “Client conduct” refers to any behavior, choice, action, or activity in which an individual may choose to engage alone or with others. The policy or “house rules” include(s), for example: allowable individual conduct (e.g., swearing or cursing, freedom of choice in religion, consumption of alcohol, smoking, sexual relations), reasonable locations where this conduct may or may not occur, and parameters for decision-making when an individual’s choice conflicts with the group’s choice (e.g., consensus, voting, taking turns, negotiation of differences).

"House rules” on the other hand, may not authorize staff or other individuals served to use a “laundry list” of discipline techniques to control an individual’s inappropriate behavior, without regard to individualized need. If it is determined that staff must use a technique or intervention, then its use must be incorporated into an individual program plan that meets all applicable requirements specified in §483.450(b)-(e). Refer to W123.

483.450(b)(1) Use of items, procedures, or systems which are potentially stigmatizing to the individual or otherwise would represent a substantial departure from the behavior of comparable peers without disabilities, to control or prevent inappropriate behavior, falls under this requirement as well. (For example, requiring an individual to live in a locked residence and not providing the individual with a key, using a high crib with bedrails for an adult who gets out of bed at night and wanders or upsets other individuals, requiring an individual who strips off his clothes at inappropriate times to wear a jumpsuit turned backwards, or other odd usages of fashion.)

483.450(b)(1)(iii) You should see clear evidence to justify the use of a more restrictive technique. This requirement does not take away the team’s discretion to use technology which represents reasonable standards of good practice, but it does require that there be evidence that justifies any decision not to use a positive or less restrictive technique first. Based on extraordinary circumstances resulting in an emergency, a facility may need to use a more restrictive method of intervention to protect the individual and others from harm than is consistent with the hierarchy it has established. This regulation does not prohibit a facility from using good judgment in this situation.

The surveyor should assess the use of emergency restrictive interventions to assure that the facility could not have reasonably anticipated the behavior, and verify that the team has reviewed the individual program plan for its adequate attention to the problem precipitating the emergency measure.

The facility is not required to justify discontinuing the use of a more restrictive technique before initiating a less restrictive technique, since the intent of the regulation is to use the most positive, least intrusive technique possible.
**483.450(b)(5)** Ongoing authorization for “programs” or “programmatic usages” of restrictive techniques, in the absence of evidence to justify such usage, constitutes a “standing” or “as needed program” to control inappropriate behavior, and are therefore not permitted.

**483.450(c)(1)** The use of time-out rooms is effective only if the individual does not like to be removed from an activity or from people. Look for patterns of frequent, lengthy time-out usage which often indicates that the environment is not reinforcing to the individual (i.e., the activities in and of themselves are not engaging, and/or the scheduled activities are potentially engaging yet the schedule is not implemented). If the individual who is in a time-out room engages in self-abuse, becomes incontinent or shows other signs of illness, staff should immediately discontinue the procedure and intervene.

Verify whether or not anyone standing or lying in any position, in any part of the time-out room can be seen.

Key locks, latch locks, and doors that open inward without an inside doorknob are not devices or mechanisms which require constant physical pressure from a staff member to keep a door shut, and, therefore, are not permitted by the regulations.

Pressure sensitive mechanisms must allow staff to enter the room at the moment the need arises.

**483.450(c)(3)** A door that opens inward can potentially be held closed, either intentionally or inadvertently, by the individual in the room, thereby denying staff immediate access to the room.

**483.450(d)(1)(ii)** “Emergency measure” is defined as use of the least restrictive procedures and for the briefest time necessary to control severely aggressive or destructive behaviors that place the individual or others in imminent danger when those behaviors reasonably could not have been anticipated, and only as they are necessary within the context of positive behavioral programming. Examine closely how frequently “emergency measures” are employed. Repeated applications of such measures within short intervals of time, without subsequent incorporation into a written active treatment program, as required by §483.440(c), raises serious questions about the individual’s receipt of active treatment and the individual’s right to be free from unnecessary restraint.

**483.450(d)(2)** The facility determines who may authorize use of emergency restraints.

**483.450(d)(2)(i)** The specific 12-hour authorization and re-authorization to use or extend usage of physical restraints does not apply to restraints used as an integral part of the individual program plan or to those that qualify as a health-related protection, as defined in the regulation.

**483.450(d)(2)(ii)** This refers to the reporting and retrospective authorization of the emergency measure when no prior use authorization could be obtained due to the seriousness and immediacy of the event.

**483.450(d)(4)** The frequency of monitoring will vary according to the type and design of the device and the psychological and physical well-being of the individual. For example, an individual in four-point restraints might require constant monitoring while someone in soft mittens may require less frequent monitoring. It is also true that for some individuals, constant visual supervision would serve to reinforce the inappropriate behavior and thereby reduce the clinical effectiveness of using the restraint. However, in no case may the 30 minute time limit be extended.

“As quickly as possible” means as soon as the individual is calm or no longer a danger to self or others.

**483.450(D)(6)** “Motion and exercise” includes an opportunity for liquid intake and toileting, if needed by the individual.

**483.450(D)(6)** In the presence of a restraint being worn during sleeping hours, surveyors must determine whether it is truly the nature of the individual’s behavior which warrants this significant level of intrusion, or whether it in fact is a substitute for lower staffing during night time hours. The “motion and exercise” requirement applies to all restraints which restrict the range of motion of a limb or joint. Therefore, for example, if a helmet is applied to protect a head wound during sleeping hours, and the individual’s range of motion in the neck has not been affected, then this requirement does not apply.

This requirement also does not apply to cases of medical restraints that are specifically ordered for the immobilization of bones and joints during the physical healing process involved with fractures, sprains, etc. (e.g., a broken bone immobilized by a cast or splint). However, if a physical restraint was applied to an extremity to prevent an individual from removing post-operative sutures, the restraint would be required to be released every two hours for a period of not less than 10 minutes.
Even though usage of mechanical supports, defined at §483.440(c)(6)(vi), may confine the movement of an individual, W306 does not apply to such usage.

483.450(e)(1) Section 483.450(e)(1) applies to all medications, including medications prescribed to control inappropriate behavior.

Overmedication occurs for many reasons. For medications prescribed to control maladaptive behavior, the most common reasons are: the individual’s maladaptive behavior may not be responsive to drugs (e.g., if an individual has a non-drug-responsive form of self injury, then use of psychotropics may simply lead up to maximum drug doses without suppressing the behavior), drug therapy may be exacerbating the behavior (e.g., if a drug-induced side effect is mistaken for agitation, then the physician may mistakenly believe that the individual is undermedicated and increase the dose), presence of polypharmacy within the same drug class may result in a drug dose that would exceed the maximum daily limit for any one drug, the individual may be receiving too frequent injections which may result in significant drug accumulation over time, and the use of daily medication plus PRN or stat (one time) doses may result in greater than the recommended daily doses being prescribed (especially since intramuscular administration may be up to four times as potent). Overmedication may also occur as a result of the interaction between drugs, whether these drugs were prescribed for control of inappropriate behavior, or for a physical or medical condition.

Administration of PRN or stat doses for periods greater than a few weeks may indicate that the individual’s daily dose is sub-therapeutic, the problem will not respond to the prescribed drug or the drug is exacerbating the problem. In such instances, the surveyor should verify whether or not the drug regimen has been reassessed.

483.450(e)(2) For drugs to be an effective therapeutic tool, they must be prescribed only to the extent that they are necessary for normal medical management of the individual.

In an emergency, a physician may authorize the use of a drug to control an inappropriate behavior. However, orders for continued emergency drug usage cannot continue until the team gives approval and the drug’s usage has been included in the plan. Psychotropic drug therapy may not be used outside of an active treatment program targeted to eliminate the specific behaviors which are thought to be drug responsive.

Although only a physician can prescribe medication, the decision to use medication for control of behavior must be based on input from other team members. W329 and W330 address the physician’s participation in the person’s individual program plan as part of the interdisciplinary team. The interdisciplinary team involvement in this decision-making process is inextricably linked to an obligation to develop and implement effective non-drug interventions that address the targeted behavior. This obligation requires constant monitoring of the non-drug interventions to determine its efficacy, and to determine whether the judicious use of drug therapy may at times be appropriate.

Individuals who receive psychoactive drugs for behaviors associated with a diagnosed mental disorder, require an active treatment program designed to reduce, ameliorate, compensate or eliminate the psychiatric symptoms. The psychiatric diagnosis must be based on a comprehensive psychiatric evaluation in which the evidence supports the conclusion of a psychiatric diagnosis as required by W212. The focus of active treatment, in this instance, would be on the mental health of the individual.

Drugs from categories other than the principle drug classes that have behavior controlling properties (e.g., antipsychotic, antianxiety, and antidepressants) are sometimes used to control inappropriate behavior. Examples include the use of propranolol (Inderal), which is classified as an antihypertensive and antianginal drug, for self-injurious behavior, and carbamazepine (Tegretol), which is an anticonvulsant, for aggression. The regulation was written to encompass any drug when its use is for purposes of controlling inappropriate behavior. This requirement does not apply to drugs, such as propranolol, when they are used to treat medical conditions. However, if their use (e.g. dose, duration, etc.) indicates that they are being used to control inappropriate behavior, the interdisciplinary team must be involved in the decision to use them, and they must be incorporated into the active treatment program plan.

In order for an individual to receive dental or medical treatment, the physician may need to prescribe a sedative as part of the normal medical management for that individual. This situation, occurring rarely,
would not require an active treatment program targeted toward elimination of the behavior. The decision to use sedation for medical appointments must be made on an individual basis, and with input from the interdisciplinary team. When the individual is regularly exhibiting behaviors that are interfering with the ability to receive routine medical and dental treatment, then use of the sedative is required to be incorporated into a specific active treatment program.

483.450(e)(4)(i) Unless the physician regularly evaluates the individual and meets with those who work most closely with the individual to review treatment progress, it will be difficult to assess whether the individual responded positively to the treatment.

Since each drug has a specific profile of side effects, potential reactions should be looked for by direct examination and questioning. It is important that everyone who works with the individual be aware of the conclusion drawn from these drug reviews.

In addition to monitoring at regular intervals, the individual should be assessed at the time the medication is changed, as well. Individuals receiving long term antipsychotic drug therapy should be examined regularly for motor restlessness, such as Parkinsonian symptoms or tardive dyskinesia.

483.450(e)(4)(ii) Planned drug withdrawals must be carefully instituted. For example, usage of antipsychotic drug therapy may not only cause tardive dyskinesia but may mask the clinical manifestations of tardive dyskinesia during treatment. This requirement applies only to drugs prescribed to modify behavior; therefore, if Thorazine is prescribed to decrease aggressive behavior, the annual drug withdrawal requirement applies. However, if Phenobarbital is prescribed to prevent seizures, or Insulin is prescribed to control diabetes, then this requirement does not apply.

In determining whether there is clinical contraindication to the annual drug withdrawal, the physician and interdisciplinary team should consider the individual’s clinical history, diagnostic/behavioral status, previous reduction/discontinuation attempts, and current regimen effectiveness. The individual’s current clinical status or the nature of a psychiatric illness may indicate that gradual withdrawal of the drug is unwise at this time. It is not acceptable, however, to preclude a gradual drug withdrawal for a person, including a person with a psychiatric impairment, merely because of the possibility that his or her behavior may be exacerbated. Data which shows a direct relationship between past attempts at withdrawal, and an increase in the targeted behavior or symptoms should be available to support the decision not to attempt a gradual withdrawal. This data should reflect the programmatic interventions utilized to respond to the behavior prior to determining that gradual withdrawal is contraindicated. The team should periodically re-evaluate the decision not to attempt a gradual withdrawal based on the individual’s progress or other changes in clinical status.

483.460(a)(2) The use of a medical care plan is intended only for those who are so ill or so at medical risk that 24-hour licensed nursing care is essential. A medical care plan need not be developed unless the individual requires licensed nursing care around the clock. Thus, individuals with chronic, but stable health problems such as controlled epilepsy, diabetes, etc. do not require a medical care plan.

It is not required that an individual have a health deficit and/or a medical care plan in order to receive ICF/MR services. The regulation is sufficiently flexible that the entire range of individuals, from those in good physical health to those who are very medically fragile, may be served.

A medical care plan may be temporary, in that it may be established to address acute health problems and then discontinued when those problems are resolved.

483.460(a)(3) Medical services are provided as necessary to maintain an optimum level of health for each individual and to prevent disability. Medical services include evaluation, diagnosis and treatment, as needed, by individuals.

Medical services, including sources for laboratory, radiology, and other medical and remedial services available to the individual must be provided if not provided in-house. There must be a written agreement that specifies the responsibilities of the facility and outside provider. (See §483.410(a).)

483.460(a)(3)(i) This standard is intended to be an annual screening so that individuals who need further indepth examination can be identified. If hearing screens are conducted annually by speech-language pathologists or audiologists the physical exam does not need to repeat this information.

Information relevant to knowing if the individual can see or hear, and how well, is tantamount for designing an appropriate active treatment strategy responsive to need.
If an individual’s vision or hearing can only be assessed through examinations conducted by specialists (e.g., comprehensive ophthalmological examinations and evoked response audiometry (ERA)), these tests need not be conducted yearly, but rather upon specialist’s recommendations. In such situations determine if yearly, the team evaluates the individual’s vision and hearing response behaviors for change, and makes referrals, if necessary.

483.460(a)(3)(ii) These immunization guides can be obtained from the American Academy of Pediatrics, Elk Grove, IL, telephone: (708) 228-5005, or from the Centers for Disease Control, Division of Immunization Center for Preventive Services, telephone: (404) 639-8215.

483.460(a)(3)(iii) This does not preclude screening tests available to the general public such as tests for urine sugar.

483.460(a)(3)(iv) These recommendations can be obtained from the American Academy of Pediatrics, Elk Grove Village, IL, telephone: (708) 228-5005, or the American College of Chest Physicians, Northbrook, IL, telephone: (708) 498-1400.

The American College of Chest Physicians and the American Academy of Pediatrics endorse the recommendations of the Center for Disease Control and Prevention, Guidelines for Preventing the Transmission of Tuberculosis in Health Care Facilities, (most recent edition). The facility should have in place a system appropriate to its population for the identification, reporting, investigation, and control of TB in order to prevent its transmission within the facility. This system should include policies and procedures for screening new employees, new clients, and other people who interact on a consistent basis with individuals residing in the facility; for reporting positive TB test results to the appropriate State authorities; for the investigative procedures that would be put in place should an individual or staff person test positive for TB; and for the evaluation of the effectiveness of the entire system. There should be arrangements with outside service providers, when needed, to ensure that any individual who tests positive for TB will receive appropriate medical treatment. Also, the system should address the issue of any staff member who tests positive for TB. The Occupational Health and Safety Administration (OSHA) requirements regarding exposure control plans and activities may also apply.

483.460(b)(1) During the admission process, which extends from the time the individual is admitted to the time the initial IPP is completed, a physician is required to ensure that an assessment of the individual’s medical status is thoroughly considered and addressed by the team as it develops the IPP. The physician’s input may be by means of written reports, evaluations, and recommendations.

42 CFR 456.380 requires that a physician must establish a written plan of care for each applicant or recipient before admission to an ICF. This is done in conjunction with the interdisciplinary team. (See §483.440(c).) The written plan of care required by §456.380 and the IPP required by §483.440(c) may be the same document, which can fulfill both requirements.

483.460(b)(2) The need for physician participation is determined by the medical needs of the individual. How the participation (whether through written report, telephone consultation, attendance at the meeting, etc.) is to be accomplished is left to the discretion of the facility.

483.460(c)(1) Unless the individual is on a medical care plan, this participation may be through a written report.

483.460(c)(2) See also W416.

483.460(c)(3)(i) A direct physical examination means a visual review of the body as well as examination of body systems that might be necessary. This includes observing for any clues (including visual, tactile, nonverbal gestures, grimaces, etc.) to detect if there is a potential for needed follow-up and monitoring. A paper review of the individual’s medical record and health statistics is not a direct physical examination.

If an individual is on a medical care plan, it is not necessary to perform the quarterly direct nursing physical examination.

483.460(c)(3)(ii) The term “licensed nurse” for purposes of this requirement means a registered nurse, a licensed practical nurse or a licensed vocational nurse. A facility is allowed to use a physician, in place of a licensed nurse, although this is certainly not required.

483.460(c)(3)(iii) “On a quarterly basis” means that the examination must be performed within the month in which the end of the quarter falls. If during the course of a year, there were three examinations...
conducted by a licensed nurse and one annual examination performed by a physician, each of which is performed within the month in which the end of the quarter or year falls, the intent of this requirement is met.

483.460(c)(3)(iv) The record includes the date of the exam.

483.460(c)(3)(v) Some physical findings discovered by the nurse while conducting the physical exam will not necessarily result in referral to the physician. This practice is acceptable if the nurse is acting within the scope of the Nurse Practice Act of the State in which he or she is licensed.

483.460(c)(4) This includes nursing care for individuals without a medical care plan.

483.460(c)(5)(i) Facility staff need to know what the limits of their responsibilities are with medically involved individuals, and how to teach individuals on a continuing basis how to take care of minor accidents until further care can be provided.

483.460(d)(2) In evaluating whether or not there is sufficient licensed nursing staff, evaluate the need for licensed nursing care represented by the health characteristics of the individuals served (as described in physical exam results, IPPs, and medical care plans) in relation to the competency and qualifications represented by the staff who provide care (through the onsite survey). Make a judgment about the sufficiency of nursing staff to care for this particular population.

483.460(f)(1) A “month” is defined as the interval between the date of admission and close of business of the corresponding day in the following month.

483.460(f)(2) The requirement applies to all individuals (including those without teeth), and more frequently as dictated by the individual’s needs.

483.460(g) Comprehensive dental treatment might include, but is not limited to:

1. Periodic examination and diagnosis, including radiographs, when indicated and detection of all manifestations of systemic disease;
2. Elimination of infection or life hazardous oral conditions, oral cancer, or cellulitis;
3. Treatment of injuries;
4. Restoration of decayed or fractured teeth;
5. Retention or recovery of space between teeth in children, when indicated;
6. Replacement of missing permanent teeth, when indicated; and
7. Appropriate pain control procedures for optimal care of the patient.

483.460(h)(1) A “dental summary” means a brief written report of each visit to the dentist and includes any care instructions to be followed-up by facility staff as a result of treatment.

483.460(i) Emphasis is placed on the provision of the service, and not on its method of delivery. Whether the facility utilizes the unit dose, individual prescription or a combination of these systems, or whether the facility has its own pharmacy or provides the service through arrangement with a community pharmacy, the emphasis is on the accuracy of the drug distribution system and the effectiveness of the drug therapy.

483.460(j)(1) The pharmacist should review on a more frequent basis the drug regimen of individuals whose response indicates problems with drug therapy. Refer to the “Indicators for Surveyor Assessment of the Performance of Drug Regimen Reviews” as stated in Appendix N to the State Operations Manual (Pharmaceutical Service Requirements in Long Term Care Facilities) to evaluate the drug regimen review done by the pharmacist.

483.460(j)(2) The physician and interdisciplinary team must consider the report of the pharmacist and determine whether to accept or reject the recommendations in the report. The pharmacist is not required to repeatedly report the same minor irregularities which have already been considered by the physician and the interdisciplinary team, but were rejected based upon the individual’s specific condition.

483.460(j)(4) Each dose of medication, whether self-administered or not, shall be properly recorded in the individual’s record. The intent of this requirement is to maintain a record of drugs administered.

483.460(j)(5) This regulation does not exclude the pharmacist from the evaluation process, but the pharmacist can best determine how to expend his/her efforts most productively in service to individuals at the facility.

483.460(k)(2) A medication “error” is a discrepancy between what the physician has ordered, and what you observe during the drug pass observation. The regulation does not allow for any medication errors.
“Self-administered” means administration of medications by the individual, independent of a staff person obtaining, selecting, and preparing the medications for the individual. This includes all usage forms (oral, injections and suppositories).

The individual should be trained until he/she can perform this function without error. **483.460(k)(3)** “Unlicensed personnel” of the facility does not refer to the situation of individuals administering their own medication. Unlicensed personnel administer only those forms of medication which State law permits.

**483.460(k)(6)** Do not expect individuals served to be more knowledgeable than members of the general public in order to self-administer medication. There is no requirement for the individual to be able to state both the generic and brand names of the medication being taken, nor is it expected that the individual be able to list all potential side effects of the medication. The test of competency to self-administer is whether the individual can take the correct medication, in the correct dosage, at the correct time.

**483.460(k)(7)** When individuals go out of a facility for home visits, or to attend workshops or school, drugs they are taking must be packaged and labeled in accordance with State law by a responsible person approved to administer medications. Be aware whether or not there are applicable State laws which may allow packaging by someone other than the pharmacist.

The test of adequacy of packaging and labeling is whether or not other persons administering medications are able to identify the individual’s medication, method of administration, contraindications, if appropriate, and administration schedule.

**483.460(l)(2)** “Authorized persons” must be restricted to those who administer the drugs and nursing supervisors (if any). No other personnel should have access to these keys.

**483.460(l)(2)** Drugs that are self-administered do not have to be double locked. The purpose for the double locking is to limit access to scheduled drugs. Since the individual is generally the only one who has access to his/her drug supply (with perhaps the exception of a facility’s Director of Nursing Services, who may have access to all of the facility’s drug supplies), there is no need to further limit access.

**483.460(l)(3)** The facility may also use the medication administration record for purposes of documenting receipt and disposition of controlled drugs. By recording the amount received, a record of the receipt and disposition, can be realized.

**483.460(l)(4)** Reconciliation of receipt and disposition of controlled drugs need not be done on each shift. If periodic (e.g., weekly or monthly) reconciliations indicate losses, more frequent reconciliation (daily or by shift) may need to be performed to identify and stop losses.

**483.460(m)(3)** If a physician discontinues a drug for a particular individual, that particular drug supply should be removed from its usual storage area. This precludes that drug from being administered to the individual in error.

**483.460(n)** A “laboratory service or test” is defined as any examination or analysis of materials derived from the human body for purposes of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of human beings.

**483.460(n)(2)** A facility performing any laboratory service or test must have applied to CMS, and received either a certificate of waiver or a certificate of registration. An application for a certificate of waiver may be made if the facility performs only those tests on the waiver list. Those tests are:

- Dipstick or Tablet Reagent Urinalysis (non-automated) for the following:
  - Bilirubin;
  - Glucose;
  - Hemoglobin;
  - Ketone;
  - Leukocytes;
  - Nitrite;
  - pH;
  - Protein;
  - Specific gravity; and
  - Urobilinogen.
- Fecal Occult blood;
● Ovulation tests - visual color comparison tests for human luteinizing hormone;
● Urine pregnancy tests - visual color comparison tests;
● Erythrocyte sedimentation rate (non-automated);
● Hemoglobin - copper sulfate (non-automated);
● Blood glucose by glucose monitoring devices cleared by the FDA specifically for home use;
● Spun microhematocrit; and
● Hemoglobin by single analyte instruments with self-contained or component features to perform specimen/reagent interaction, providing direct measurement and readout.

If the facility performs tests, other than those on the waiver list, a certificate of registration is required. These certificates are required regardless of the frequency with which the laboratory services or tests are conducted. When no tests are performed, a certificate is not needed. Facilities only collecting specimens and not performing testing do not need a certificate.

A not-for-profit or a State or local government organization may have one certificate covering all the facilities it operates (i.e., all the separately certified residences which fall under its governing body), if no more than a total of 15 types of waived or moderately complex laboratory tests are used.

483.470(a)(1) Individuals should live in the least restrictive grouping in keeping with their level of functioning. Prime consideration in the grouping of individuals is made according to social and intellectual development, friendship patterns, and commonality of interests.

The use of “grossly different ages” is intended to ensure, for example, that very young children are not inappropriately housed together with much older individuals. Extreme differences may in some instances actually impede appropriate training and may pose a threat to the safety of younger, more vulnerable individuals.

483.470(a)(2) The surveyor should determine if the individuals’ skill level, rather than the individuals’ physical, sensory or medical disability, justifies the housing pattern.

483.470(b)(1)(v) An “initially certified” facility includes any facility or portion thereof that is certified for participation in Medicaid after a period of non-participation (e.g., if its certification has been terminated or voluntarily withdrawn).

Each of the three criteria specified below must exist in order for a facility to qualify as undergoing “major renovations or conversions”:

● Individuals must vacate the building during the period of renovation or construction;
● No Medicaid billing takes place during the period of renovation or construction; and
● A resurvey of the building is required before individuals may return to live in the building.

Facilities with buildings which were undergoing major renovations and were not reoccupied prior to October 3, 1988, are expected to meet the floor to ceiling wall requirements. This also applies to those facilities with buildings that had plans for renovation approved prior to October 3. There is no provision in the regulation for granting waivers of this requirement.

In a facility certified prior to October 3, 1988, if the conditions which define “major renovation or conversion” are avoided during installation of walls to divide “open bay sleeping areas,” it is allowable for the walls not to extend from floor to ceiling.

483.470(b)(2) The intent of the regulation is to prohibit the housing of individuals in basements that are entirely below grade. Individuals may be housed on the lower level of housing (e.g., a bi-level house), provided the window height requirements are met.

483.470(b)(3) The only acceptable reason for individuals to be housed in bedrooms serving more than four people is because the individual is in very fragile health and needs extensive life support services, such as posturing for clearing the airways, or monitoring for uncontrolled seizures. If more than four people are housed together in the same room, the number should remain small, and each individual placed in the grouping must have a high level of medical monitoring need.

Most extensive life support services, by their very nature are able to be provided by licensed personnel alone, or only under the direct visual supervision of licensed personnel. The presence of a medical care plan is not required because all such life threatening possibilities are difficult to predict. However, the greatest majority of individuals who might qualify for this variance will be on a medical care plan.
See §2140 for the documentation required for a medical variance.

**483.470(b)(4)(iii)** A single bedspread may be used year round, if it is appropriate for all seasons.

**483.470(b)(4)(iv)** “Furniture” is to be distinguished from “furnishings” (such as plants, pictures, etc.), which though encouraged as being an appropriate and desirable aspect of a normalized living environment, cannot serve as a substitute for appropriate individual furniture that can be used by the individual alone.

The facility is permitted either to provide the individual with an individualized closet or with a designated area in a shared closet. The use of central clothing bins in a facility clothing room, in the absence of required individual closet space in the bedroom, is not an acceptable practice.

**483.470(c)(2)** For a storage space to be determined as “suitable,” it must assure the safekeeping of the individual’s possessions among other things being stored.

Use of the term “accessible” does not require unrestricted access in situations where this is precluded by an active treatment program designed to eliminate inappropriate behavior, or in which the individual’s interdisciplinary team determines that unrestricted access would endanger the individual or others. The surveyor should determine whether or not there is a pattern of restricted access not because of the behavior of the individual, but because of the behavior of others with whom the individual lives. This could also raise the question of inappropriate grouping of individuals due to different functioning abilities.

**483.470(d)(1)** “Bathing facilities appropriate in . . . design” must include provisions for a mirror and sink/tooth-brushing area.

**483.470(d)(2)** Gang showers and open toilets are inappropriate to the quality of life, privacy, and personal dignity of the individuals served in the facility.

Individual privacy does not preclude the assistance provided by facility staff, when necessitated by the individual’s condition.

**483.470(d)(3)** Individuals must be under the direct supervision of staff while being trained to operate hot water temperature controls.

**483.470(e)(1)(i)** Since a door serves primarily to provide egress rather than to perform the ventilation and aesthetic functions of an outside window, it may not be used for room ventilation in place of a window.

**483.470(e)(2)(i)** A “normal comfort range” in most instances is defined as not going below a temperature of 68 degrees Fahrenheit or exceeding a temperature of 81 degrees Fahrenheit for facilities in most geographic areas of the country (primarily at the Northernmost latitudes) where that temperature is exceeded only during rare, brief episodes of unseasonably hot weather.

**483.470(f)(1)** “Slip-resistant” is to be distinguished from “slip-free.” There is a presumption made that floors will ordinarily be dry, and when wet, appropriate precautions will be taken.

**483.470(g)(2)** The term “furnish” means that the facility is responsible for obtaining or purchasing these items and is responsible for making any necessary arrangements to enable the individual actually to receive them. However, if an item is available free of charge the facility would satisfy the requirement simply by making the necessary arrangements for the individual to receive them. Individuals’ personal funds should not be used for these items since this is a covered service under the ICF/MR benefit.

The term “maintain in good repair” means that the facility is responsible for ensuring that these items are kept in good working order.

**483.470(g)(3)** A bedroom hamper can be an acceptable dirty linen storage “area” if kept odor free, consistent with the infection control requirements at §483.470(l).

**483.470(i)(2)(i)** All facilities, regardless of their size require actual evacuation. “Actually evacuate,” as used in this standard, applies to all individuals. The drills are conducted not only to rehearse the individuals and staff for fire (see §483.470(i)(2)(v)), but for other disasters such as hurricanes, tornadoes, floods, etc. Such disasters would require the entire occupancy to be evacuated, and, therefore, the actual evacuation must be practiced, as required.

**483.470(i)(3)** Since five-in staff and their relief personnel are generally the same staff who work with the individuals on a round-the-clock basis, they must conduct a minimum of 4 drills a year, each of which must occur at different times within the day (24-hour period) (i.e., morning, afternoon, and night (sleep
time), and generally when individuals are at different locations within the house. If the facility has large numbers of relief personnel, more drills may be needed to meet the intent of this requirement.


483.470(l)(1) An “active program” includes such observable practices as: the direct care staff routinely washing their hands or changing gloves after working with an individual who has an infectious disease or working with each individual during mealtimes; the use of aseptic technique, when appropriate; an ongoing program of communicable disease control and investigation of infections; and an active training program that ensures the individuals served receive adequate prevention of transmission information and skills, according to needs.

Procedures must be followed to prevent cross-contamination, including hand washing or changing gloves at mealtimes, after providing personal care to more than one individual, or when performing other tasks among individuals which provide the opportunity for cross-contamination to occur. Facilities for hand washing must exist and be available to staff. Toothbrushes and other personal hygiene items must be stored and used in such a manner to prevent cross-contamination.

Both the OSHA and the CDC have specific requirements regarding human immunodeficiency virus (HIV), TB, and hepatitis precautions. These requirements should be incorporated into the facility’s practices when relevant to the individuals residing in the facility. Concerns about OSHA violations should be referred to OSHA.

483.470(l)(3) This regulation does not require the recording or tracking of specific groups of symptoms, if a record of incidents and corrective actions related to infections is maintained. This regulation does not address the form or location of this record or direct that it be separate from the documentation required by CFR 483.410(c)(1).

483.470(l)(4) The facility should use the Recommendations for Prevention of Communicable Disease Transmission in Health Care Settings (such as preventing HIV) issued by the Centers for Disease Control, Atlanta, Georgia 30333, as well as OSHA guidelines in these areas.

A facility participating in the Medicaid program may not discriminate against individuals who are HIV-infected so long as these individuals do not (on a case-by-case basis) pose a substantial health and safety risk to others, or pose a performance problem, and are “otherwise qualified.”

483.480(a)(1) “Modified and specially-prescribed” diets are defined as diets that are altered in any way to enable the individual to eat (for example, food that is chopped, pureed, etc.) or diets that are intended to correct or prevent a nutritional deficiency or health problem.

483.480(a)(5) Since the main purpose of food is to support and maintain the health of an individual, it is important that the use of food as a behavior reinforcing device (primary reinforcement) not be abused. Foods are selected to provide essential nutrients. When these foods are routinely removed and denied during the meals, without comparable replacements, the individual is at risk of consuming a diet that is not adequate to meet nutritional needs, and in violation of §483.420(d)(1)(ii), which does not allow food contributing to a nutritionally adequate diet to be used as “punishment.” Likewise, the addition of high caloric reinforcers must be coordinated into the total daily diet intake.

483.480(a)(6) For suggested guidelines write to:

1. U.S. Department of Agriculture
   Human Nutrition Information Services
   Washington, D.C. 20250

2. The National Dairy Council
   Rosemont, Illinois 60028-42334

483.480(b)(1)(i) A “substantial evening meal” is defined as offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese. The meal represents no less than 20 percent of the day’s total nutritional requirements.

483.480(b)(1)(i) A “nourishing snack” is an offering of items, single or in combination, from the daily food guide.

483.480(b)(2)(iii) The term “form,” as used in this requirement, refers to food consistency (i.e., pureed, chopped, ground, etc.).
483.480(b)(3) This standard does not apply to food served in family-style dishes, unless the length of time the food is on the table or other considerations (such as individuals fingering or drooling in the food) compromise the safety and nutritive value for reuse of the food.

483.480(d)(1) For purposes of this standard, “dining areas” mean discrete eating areas located outside of bedrooms, established, furnished, and equipped for the purpose of eating meals. For purposes of this standard, provision of meals in dining areas outside of the home (such as restaurants, food vendors, etc.) may also be included.

To the maximum extent possible, individuals should be afforded the opportunity to eat routine meals (like breakfast and dinner) in dining areas that approximate those afforded to their peers without disabilities (e.g., dining areas that are a part of the living unit, rather than eating all meals in buildings exclusively established for eating purposes).

483.480(d)(2) The intent of this regulation is to afford individuals the opportunity to participate in the social experience of dining with their companions. Observe whether or not facility staff model and reinforce appropriate communication and social behavior between dining companions seated at the same table.

483.480(d)(3) Single service eating devices must be discarded after each use.

Determine if the following types of adaptive devices are made available when needed:

- Double suction cups or other devices to anchor dishes on a table or tray for individuals with major coordination problems;
- Rocking one-handed knife-fork or knife-spoon for an individual with the use of only one hand;
- Built up or extended handles or silverware for those with problems of grasp or range of motion;
- Plate guards or plates with raised rims to provide a surface against which the individual with a physical disability can push food onto a fork or a spoon;
- Flexible drinking straws;
- Spoon bent to a 90 degree angle at the bowl or a swivel spoon to assist an individual without normal wrist motions.
- Any other adaptive device deemed by the team as needed by the individual to eat more independently.

483.480(d)(4) To the maximum extent possible, staff should model appropriate mealtime behavior and conversation by sitting at the table with individuals, and, when possible, eating meals with individuals.

Mastery of the social skills involved in eating in a variety of dining areas and settings is another step to the individual’s independence beyond the health aspects of nutrition and the basic skills involved in eating independently. Achieving independence will further help the individual to live in less restrictive environments. Determine to what extent individuals are exposed to out-of-the-home dining environments available to the general public (e.g., restaurants, fast-food establishments, picnics, parties, cafeterias, etc.).

Depending on the needs of the individuals and the available space it may be more effective for meals to be conducted in two different seatings or groupings.

483.480(d)(5) This applies to all individuals, including those fed by nasogastric tube or gastrostomy tube. The IPP should identify the most appropriate position for the individual to be positioned during mealtime, in relation to the placement of the food contents.

[ARC 0906C, IAB 8/7/13, effective 11/6/13]
CHAPTER 65
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

481—65.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered incorporated verbatim in the rules. The use of the words “shall” and “must” indicate these standards are mandatory.

“Abuse” means any of the following as a result of the willful or negligent acts or omissions of a caretaker:
1. Physical abuse;
2. Physical injury to or unreasonable confinement or cruel punishment of a resident;
3. Sexual abuse;
4. Mental abuse;
5. Verbal abuse;
6. Exploitation of a resident; or
7. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a resident’s life or health as a result of the acts or omissions of the caretaker.

“Academic services” means those activities provided to assist a person to acquire general information and skills which establish the basis for subsequent acquisition and application of knowledge.

“Activity coordinator” means a person who has completed the state-approved activity coordinator’s course.

“Age appropriate” means those activities, settings, and personal appearance and possessions commensurate with the person’s chronological age.

“Chronic mental illness” (see the definition of “Mental illness”).

“Commission” means the mental health and disability services commission.

“Community living training services” are those activities provided to assist a person to acquire or sustain the knowledge and skills essential to independent functioning to the person’s maximum potential in the physical and social environment. These services may focus on the following areas:
1. Independent living skills which include those skills necessary to sustain oneself in the physical environment and are essential to the management of one’s personal property and business. This includes self-advocacy skills.
2. Socialization skills which include self-awareness and self-control, social responsiveness, group participation, social amenities and interpersonal skills.
3. Communication skills which include expressive and receptive skills in verbal and nonverbal language, including reading and writing.
4. Leisure time and recreational skills which include the skills necessary for a person to use leisure time in a manner which is satisfying and constructive to the person.
5. Parenting skills which include those skills necessary to meet the needs of the person’s child. This service is designed to assist the person with mental illness to acquire or sustain the skills necessary for parenting.

“Department” means the Iowa department of inspections and appeals.

“Diagnosis” means the investigation and analysis of the cause or nature of a person’s condition, situation or problem.

“Direct care staff” means those staff persons who provide a homelike environment for the residents and assist or supervise the resident in meeting the goals in the resident’s program plan.

“Evaluation services” means those activities designed to identify a person’s current functioning level and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.
“Exploitation” means the act or process of taking unfair advantage of a resident, or the resident’s physical or financial resources for one’s own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation or false pretenses.

“Goals” means general statements of attainable expected accomplishments to be achieved in meeting identified needs.

“Incident” means all accidental, purposeful, or other occurrences within the facility or on the premises affecting residents, visitors, or employees whether there is apparent injury or where hidden injury may have occurred.

“Individual program plan (IPP)” means a written plan for the provision of services to the resident that is developed and implemented using an interdisciplinary process that is based on the resident’s functional status, strengths, and needs and that identifies service activities designed to enable a person to maintain or move toward independent functioning. The plan identifies a continuum of development and outlines progressive steps and anticipated outcomes of services.

“Informed consent” means an agreement by a person, or by the person’s legally authorized representative, based upon an understanding of:

1. A full explanation of the procedures to be followed including an identification of those that are and are not experimental;
2. A description of the attendant discomforts, risks, and benefits to be expected; and
3. A disclosure of appropriate alternative procedures that would be advantageous for the person.

“Interdisciplinary process” means an approach to assessment, individual program planning, and service implementation in which planning participants function as a team. Each participant utilizing the skills, competencies, insights and perspectives provided by the participant’s training and experience focuses on identifying the service needs of the resident and the resident’s family. The purpose of the process is for participants to review and discuss, face-to-face, all information and recommendations and to reach decisions as a team. Participants share all information and recommendations, and develop as a team, a single, integrated individual program plan to meet the resident’s needs and, when appropriate, the resident’s family’s needs.

“Interdisciplinary team” means the group of persons who develop a single, integrated individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian, if applicable, the resident’s advocate, if desired by the resident, a referral agency representative, other appropriate staff members, the resident’s attending psychiatrist and QMHP, other providers of services, and other persons relevant to the resident’s needs.

“Least restrictive environment” means the environment in which the interventions in the lives of people with mental illness can be carried out with a minimum of limitation, intrusion, disruption, and departure from commonly accepted patterns of living.

It is the environment which allows residents to participate, to the maximum extent possible, in everyday life and to have control over the decisions that affect them. It is an environment that provides needed supports which do not interfere with personal liberty and do not unduly interfere with a person’s access to the normal events of life.

“Legal services” means those activities designed to assist the person in exercising constitutional and legislatively enacted rights.

“Level of functioning” means a person’s current physiological and psychological status and current academic, community living, self-care and vocational skills.

“Mechanical restraint” means a device applied to a person’s limbs, head or body which restricts a person’s movement and includes, but is not limited to, leather straps, leather cuffs, camisoles or handcuffs.

“Mental abuse” means, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.

“Mental health counselor” means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

“Mental health, mental retardation commission” means the commission described in Iowa Code section 225C.5.
“Mental illness” means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life. Mental illnesses include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of “American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.” Mental illness is chronic when it is of long duration or marked by frequent recurrences.

“Normalization” means helping persons, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society in ways which incorporate the age-appropriate and least restrictive principles.

“Objectives” means specific, time-limited, and measurable statements showing outcomes or accomplishments necessary to progress toward the goal.

“Physical abuse” means, but is not limited to, corporal punishment and the use of restraints as punishment.

“Physical injury” means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition. It may also mean damage to the extent the bodily tissue cannot be restored to a sound and healthy condition, or results in the death of the resident whose bodily tissue sustained the damage.

“Physical or physiological treatment” means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

“Physical restraint” means a technique involving the use of one or more of a staff person’s arms, legs, hands or other body areas to restrict or control the movements of a resident. This does not include the use of mechanical restraint.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.

“Program” means a set of related resources and services directed to the accomplishment of a fixed set of goals and objectives for any of the following:
1. Special target populations;
2. The population of a specified geographic area(s);
3. A specified purpose; and
4. A person.

“Psychiatric nurse” means a person who meets the requirements of certified psychiatric-mental health nurse practitioner pursuant to 655—Chapter 7, Iowa Administrative Code, or is eligible for certification.

“Psychiatrist” means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

“Psychologist” means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification.

“Psychotherapeutic treatment” means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person’s functioning in response to the physical, emotional and social environment.

“Qualified mental health professional (QMHP)” means a person who:
1. Holds at least a master’s degree in a mental health field, including but not limited to: psychology, counseling and guidance, nursing and social work; or is a doctor of medicine (M.D.) or a doctor of osteopathic medicine and surgery (D.O.); and
2. Holds a current Iowa license when required by the Iowa licensure law; and
3. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental problems and needs of individuals and in providing appropriate mental health services for those individuals. See rule 481—65.4(135C) for variance procedures.

“Resident” means a person who has been admitted to the facility to receive care and services.

“Seclusion” means the isolation of the resident in a locked room which cannot be opened by the resident.
“Self-care training services” means those activities provided to assist a person to acquire or sustain the knowledge, habits and skills essential to the daily needs of the person. The activities focus on personal hygiene, general health maintenance, mobility skills and other activities of daily living.

“Service” means a set of interrelated activities provided to a resident pursuant to the IPP.

“Sexual abuse” means, but is not limited to, the exposing of pubes to a resident, the exposure of a resident’s genitals, pubes, breasts or buttocks for sexual satisfaction, fondling or touching the inner thigh, groin, buttocks, anus or breast of a resident or the clothing covering these areas, sexually suggestive comments or remarks made to a resident, a genital to genital or rectal, or oral to genital or rectal contact, or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.

“Social worker” means a person who is licensed to practice social work in the state of Iowa, or who is eligible for licensure.

“Support services” means those activities provided to or on behalf of a person in the areas of personal care and assistance and personal hygiene in order to allow a person to live in the least restrictive environment.

“Transportation services” means those activities designed to assist a person to travel from one place to another to obtain services or carry out life’s activities.

“Verbal abuse” means, but is not limited to, the use of derogatory terms or names, undue voice volume and rude comments, orders or responses to residents.

“Vocational training services” means those activities designed to familiarize a person with production or employment requirements and to maintain or develop the person’s ability to function in a work setting. This service includes programming which allows or promotes the development of skills, attitudes and personal attributes appropriate to the work setting.

“Work” means any activity during which a resident provides goods or services for wages.

“Written, in writing or recorded” means that an account or entry is made in a permanent form.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—65.2(135C) Application for license. In order to obtain an initial license for an ICF/PMI, the applicant must comply with the rules and standards contained in Iowa Code chapter 135C and the standards in 481—Chapter 61. Variances from Chapter 61 regulations are allowed under rule 481—61.2(135C). An application must be submitted to the department which states the type and category of license for which the facility is applying.

65.2(1) Each application shall include:

a. 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 bathroom, and designation of the use to which room will be put and window and door location;

b. A photograph of the front and side elevation of the facility;

c. The statutory fee for an intermediate care facility license;

d. Evidence of a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules.

65.2(2) A résumé of care with a narrative which includes the following information shall be submitted:

a. The purpose of the facility;

b. A description of the target population and limitations on resident eligibility;

c. An identification and description of the services the facility will provide. This shall include at least specific and measurable goals and objectives for each service available in the facility and a description of the resources needed to provide each service including staff, physical facilities and funds;

d. A description of the human service system available in the area, including, but not limited to, social, public health, visiting nurse, vocational training, employment services, sheltered living arrangements, and services of private agencies;

e. A description of working relationships with the human service agencies when applicable which shall include at least how the facility will coordinate with:
(1) The department of human services to facilitate continuity of care and coordination of services to residents; and
(2) Other agencies to identify unnecessary duplication of services and plan for development and coordination of needed services;
   f. A list of members of the care review committee; and
   g. A description of a program of training for the care review committee concerning their role in the ongoing care and treatment of residents.
   65.2(3) In order to obtain a renewal or change of ownership license of the ICF/PMI the applicant must:
   a. Submit to the department the completed application form 30 days prior to annual license renewal or change of ownership date of the ICF/PMI license;
   b. Submit the statutory license fee for an ICF/PMI 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 as to compliance with fire safety rules; and
   d. Submit documentation of review of résumé of care pursuant to subrule 65.2(1), paragraph “a,” and a copy of any revisions to the plan.

This rule is intended to implement Iowa Code sections 135C.7 and 135C.9.

481—65.3(135C) Licenses for distinct parts. Separate licenses may be issued for distinct parts which are clearly identifiable parts of a health care facility, containing contiguous rooms in a separate wing or building or on a separate floor of the facility, which provide care and services of separate categories.

The following requirements shall be met for a separate licensing of a distinct part:
1. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)
2. The distinct part shall meet all the standards, rules and regulations pertaining to the category for which a license is being sought.
3. The distinct part must be operationally and financially feasible.
4. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)
5. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

This rule is intended to implement Iowa Code section 135C.6(2).

481—65.4(135C) Variances. Variances from these rules may be granted by the director of the department when:
1. The need for a variance has been established consistent with the résumé of care or the resident’s individual program plan.
2. There is no danger to the health, safety, welfare or rights of any resident.
3. The variance will apply only to a specific intermediate care facility for the mentally ill.

Variances shall be reviewed at least once at the time of each licensure survey and any other time by the department to see if the need for the variance is still acceptable.

65.4(1) To request a variance, the licensee must:
   a. Apply in writing on a form provided by the department;
   b. Cite the rule or rules from which a variance is desired;
   c. State why compliance with the rule or rules cannot be accomplished;
   d. Explain how the variance is consistent with the résumé of care or the individual program plan; and
   e. Demonstrate that the requested variance will not endanger the health, safety, welfare or rights of any resident.

65.4(2) Upon receipt of a request for variance, the director will:
a. Examine the rule from which the variance is requested;
b. Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the residents;
c. Examine the effect of the requested variance on the health, safety or welfare of the residents;
d. Consult with the applicant to obtain additional written information if required; and
e. Obtain approval of the Iowa mental health and disability services commission, when the request is for a variance from the requirement for qualification of a mental health professional.

65.4(3) Based upon this information, approval of the variance will be either granted or denied within 120 days of receipt.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—65.5(135C) General requirements.

65.5(1) A valid license shall be posted in each facility so the public can easily see it. (III)
65.5(2) Each license is valid only for the premises and person named on the license and is not transferable.
65.5(3) The posted license shall accurately reflect the current status of the facility. (III)
65.5(4) Each citation or a copy of each citation issued by the department for a Class I or Class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)
65.5(5) Licenses expire one year after the date of issuance or as indicated on the license.
65.5(6) There shall be no more beds erected than are stipulated on the license. (II, III)

This rule is intended to implement Iowa Code section 135C.8.

481—65.6(135C) Notification required by the department. The department shall be notified within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staff ratio below that required for licensing. No additional residents shall be admitted until the minimum staff requirements are achieved. (II, III)

65.6(1) Other required notification and time periods are:

a. Within 30 days of any proposed change in the résumé of care for the ICF/PMI; (II, III)
b. Thirty days before addition, alteration, or new construction is begun in the ICF/PMI or on the premises; (III)
c. Thirty days before the ICF/PMI closes; (III)
d. Within two weeks of any change of administrator; (II, III) and
e. Within 30 days when any change in the category of license is sought. (III)

65.6(2) Prior to the purchase, transfer, assignment, or lease of an ICF/PMI the licensee shall:

a. Inform the department in writing of the pending sale, transfer, assignment, or lease of the facility; (III)
b. Inform the department in writing of the name and address of the prospective purchaser, transferee, assignee or lessee at least 30 days before the sale, transfer, assignment or lease is completed; (III) and
c. Submit a written authorization to the department permitting the department to release information of whatever kind from the department’s files concerning the licensee’s ICF/PMI to the named prospective purchaser, transferee, assignee or lessee. (III)

65.6(3) After the authorization has been submitted to the department, the department shall upon request send or give copies of all recent licensure surveys and any other pertinent information relating to the facility’s licensure status to the prospective purchaser, transferee, assignee or lessee. Costs for copies requested shall be paid by the prospective purchaser, transferee, assignee or lessee. No information personally identifying any resident shall be provided to the prospective purchaser, transferee, assignee or lessee. (II, III)

This rule is intended to implement Iowa Code sections 135C.6(3) and 135C.16(2).
481—65.7(135C) Administrator. Each ICF/PMI shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (II, III)

65.7(1) The administrator shall be at least 21 years of age and shall meet at least one of the following conditions:

a. Be licensed in Iowa as a nursing home administrator, or certified as a residential care administrator. No residential care facility administrator certified under a waiver from the department shall administrate an intermediate care facility for persons with mental illness. The administrator must have at least two years’ experience in direct care or supervision of people with mental illness and at least one year of experience in an administrative capacity; (II, III) or

b. Be a qualified mental health professional (QMHP) with at least one year of experience in an administrative capacity. (II, III)

If an ICF/PMI 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 ICF/PMI without meeting the requirements of subrule 65.7(1), paragraph “a” or “b.” When this occurs, the person in charge of the ICF/PMI distinct part shall meet the requirements of subrule 65.7(1), paragraph “a” or “b.” (II, III)

65.7(2) The administrator of more than one facility shall be responsible for no more than 150 beds in total. (II, III)

a. The distance between the two farthest facilities shall be no greater than 50 miles. (II, III)

b. An administrator of more than one facility must designate an administrative staff person in each facility who shall be responsible for directing programs in the facility during the administrator’s absence. (II, III)

65.7(3) The administrative staff person shall be designated in writing and immediately available to the facility on a 24-hour basis when the administrator is absent and residents are in the facility. (II, III)

The person(s) designated shall:

a. Have at least two years’ experience or training in a supervisory or direct care position in a mental health setting; (II, III)

b. Be knowledgeable of the operation of the facility; (II, III)

c. Have access to records concerned with the operation of the facility; (II, III)

d. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

e. Be at least 21 years of age; (III)

f. Be empowered to act on behalf of the licensee during the administrator’s absence concerning the health, safety and welfare of the residents; (II, III) and

g. Have training to carry out assignments and take care of emergencies and sudden illnesses of residents. (II, III)

65.7(4) If an administrator serves more than one facility, a written plan shall be developed, implemented and available for review by the department designating regular and specific times the administrator will be available to meet with the staff and residents to provide direction and supervision of resident care and services. (II, III)

65.7(5) When a facility has been unable to replace the administrator, through no fault of its own, a provisional administrator meeting the qualifications of the administrative staff person may be appointed on a temporary basis by the licensee to assume the administrative responsibilities for the facility. This person shall not serve more than three months without approval from the department. The department must be notified before the appointment of the provisional administrator. (III)

65.7(6) A facility applying for initial licensing shall not have a provisional administrator. (III)

This rule is intended to implement Iowa Code section 135C.14(2).

481—65.8(135C) Administration.

65.8(1) The licensee shall:

a. Be responsible for the overall operation of the ICF/PMI; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (II, III)
c. Establish written policies, which shall be available for review by the department or other agencies designated by Iowa Code section 135C.16(3), for the operation of the ICF/PMI including, but not limited to: (III)
   (1) Personnel; (III)
   (2) Admission; (III)
   (3) Evaluation services; (II, III)
   (4) Programming and individual program plan; (II, III)
   (5) Crisis intervention; (II, III)
   (6) Discharge or transfer; (III)
   (7) Medication management; (II)
   (8) Resident property; (II, III)
   (9) Financial affairs; (II, III)
   (10) Records; (III)
   (11) Health and safety; (II, III)
   (12) Nutrition; (III)
   (13) Physical facilities and maintenance; (III)
   (14) Care review committee; (III)
   (15) Resident rights; (II, III) and

   d. Furnish statistical information concerning the operation of the facility to the department within 30 days of request. (III)

65.8(2) The administrator shall be responsible for the implementation of procedures to support the policies established by the licensee. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.9(135C) Personnel.

65.9(1) The 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; (III)

   b. Annual performance evaluations of all employees and consultants which are dated and signed by the employee or consultant and the supervisor; (III)

   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 they were hired; (III)

   d. Roles, responsibilities, and limitation of student interns and volunteers; (III)

   e. An orientation program for all newly hired employees and consultants which includes introduction to facility personnel policies and procedures and a discussion of the safety plan. Subparagraphs 65.9(1) “f”(3), (5) and (9) shall be included; (II, III)

   f. A plan for a continuing education program with a minimum of 12 in-service programs per year. There shall be a written, individualized staff development plan implemented for each employee. The plan shall take into consideration the duties of the employee and the needs of the facility identified in the résumé of care. The plan shall ensure that each employee has the opportunity to develop and enhance skills and to broaden and increase knowledge needed to provide effective resident care including, but not limited to:

   (1) First aid; (II, III)

   (2) Human needs and behavior; (II, III)

   (3) Problems and needs of persons with mental illness; for example, diagnosis and treatment, suicide assessment and prevention; (II, III)

   (4) Medication; (II, III)

   (5) Crisis intervention; for example, use of restraints and seclusion; (II)

   (6) Delivery of services in accordance with the principles of normalization; (III)

   (7) Infection control and wellness; (III)
(8) Fire safety, disaster, and tornado preparation; (II, III) and
(9) Resident rights. (II, III)
  g. Equal opportunity and affirmative action employment practices; (III)
  h. Procedures to be used when disciplining an employee; (III) and
  i. Appropriate dress and personal hygiene for staff and residents. (III)

65.9(2) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:
  a. Employees shall have a physical examination before employment and at least every four years after beginning employment. (III)
  b. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)
  c. No one shall provide services in a facility if the person has a disease:
     (1) Which is transmissible through required workplace contact; (I, II, III)
     (2) Which presents a significant risk of infecting others; (I, II, III)
     (3) Which presents a substantial possibility of harming others; (I, II, III)
     (4) For which no reasonable accommodation can eliminate the risk. (I, II, III)
  d. 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. (III)
  e. Health certificates for all employees shall be available for review by the department. (III)

65.9(3) Staffing. The facility shall establish, subject to approval of the department, the numbers and qualifications of the staff required in an ICF/PMI using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)
  a. Direct care staff. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. The policies and procedures shall provide for an on-call staff person to be available when residents and staff are absent from the facility. (II, III)
     (1) The on-call staff person shall be designated in writing. (II, III)
     (2) Residents or another responsible person shall be informed of how to contact the on-call person. (II, III)
  b. Qualified mental health professional. The ICF/PMI shall, by direct employment or contract, provide for sufficient services of a qualified mental health professional to attain or maintain the highest practicable mental and psychosocial well-being of each resident. Attainment shall be determined by resident assessment and individual plans of care. (I, II, III) Responsibilities of the QMHP shall include, but not be limited to:
     (1) Approval of each resident’s individual program plan; (II, III)
     (2) Monitoring the implementation of each resident’s individual program plan, including periodic personal contact; (II, III) and
     (3) Participation on each resident’s interdisciplinary team. (II, III)
  c. Nursing staff. Each facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practical physical, mental and psychosocial well-being of each resident. Attainment shall be determined by resident assessments and individual plans of care.
     (1) The director of nursing (DON) shall be a registered nurse who is employed by the facility at least 40 hours per week. This person shall have two years’ experience in direct care or supervision of people with mental illness. (II, III)
     (2) The facility shall provide 24-hour service by licensed nurses, including at least one registered nurse on the day tour of duty, seven days a week. (II, III)
     (3) If the DON has other institutional responsibilities, a qualified registered nurse shall serve as the DON’s assistant so there is the equivalent of a full-time nursing supervisor on duty. (II, III)
(4) The department shall establish, on an individual facility basis, the numbers and qualifications of the staff required in the facility using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)

(5) The DON shall not serve as charge nurse in a facility with an average daily total occupancy of 60 or more residents. (II, III)

(6) A waivered licensed practical nurse shall not be allowed as a charge nurse on any shift. (II, III)

(7) There shall be at least two people capable of rendering nursing service awake, dressed, and on duty at all times. (II, III)

d. Activity staff. Each ICF/PMI shall employ a recreational therapist, occupational therapist or activity coordinator to direct the activity program both inside and outside the facility in accordance with each resident’s individual program plan. (III)

Staff for the activity program shall be based on the needs of the residents being served as identified on the IPP. (III)

(1) The activity program director shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. (III)

(2) Personnel coverage shall be provided when the activity program director is absent during scheduled activities. (III)

(3) The activity program director shall have access to all information about residents necessary to carry out the program. (III)

e. Responsibilities of the activity program director shall include:

(1) Coordinating all activities, including volunteer or auxiliary activities and religious services; (III)

(2) Ensuring that all records required are kept; (III)

(3) Coordinating the activity program with all other services in the facility; (III) and

(4) Participating in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

65.9(4) Personnel record. A personnel record shall be kept for each employee. (III)

a. The record shall include the employee’s:

(1) Name and address, (III)

(2) Social security number, (III)

(3) Date of birth, (III)

(4) Date of employment, (III)

(5) References, (III)

(6) Position in the facility, (III)

(7) Job description, (III)

(8) Documentation of experience and education, (III)

(9) Staff development plan, (III)

(10) Annual performance evaluation, (II, III)

(11) Documentation of disciplinary action, (II, III)

(12) Date and reason for discharge or resignation, (III) and

(13) Current physical examination. (III)

b. The personnel records shall be made available to the long-term care resident’s advocate/ombudsman of the department on aging in response to a complaint being investigated. (III)

65.9(5) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

This rule is intended to implement Iowa Code sections 135C.14(2) and 135C.14(6).

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0903C, IAB 8/7/13, effective 9/11/13]
**481—65.10(135C) General admission policies.** There shall be admission policies which address the following:

1. No resident shall be admitted or retained who is in need of greater services than the facility can provide. (II, III)
2. Residents shall be admitted only on a written order signed by a physician. (II, III)
3. A preplacement visit shall be completed prior to admission, except in case of an emergency admission or readmission, to familiarize the applicant with the facility and services offered. The policies and procedures may allow for waiving the requirement at the request of a person seeking admission when the completion of the visit would create a hardship for the person seeking admission. If the distance to be traveled makes it impossible to complete the visit in an eight-hour day, this may be considered to create a hardship. (III)
4. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the person’s needs. (III)
5. Admission criteria shall include, but not be limited to, age, sex, current diagnosis from an American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)
6. Each facility shall maintain a waiting list with selection priorities identified. (III)
7. No ICF/PMI may admit more residents than the number of beds for which it is licensed. (II, III)
8. There shall be a written, organized orientation program for all residents which shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the health care, recovery, and rehabilitation of the individual and which shall be available for review by the department. (III)
9. Infants and children under the age of 18 shall not be admitted as residents to an ICF/PMI for adults unless given prior written approval by the department. A distinct part of an ICF/PMI, segregated from the adult section, may be established based on a résumé of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department’s review and approval. (III)
10. Within 30 days of a resident’s admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident’s personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident’s name along with the names of the resident’s spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services.

   If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

   The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care. (II, III)

   This rule is intended to implement Iowa Code sections 135C.3 and 135C.23.

**481—65.11(135C) Evaluation services.** Each resident admitted shall have a physical examination and tuberculin test no more than 30 days before admission and a physical examination annually after that. Each annual examination shall be sufficient to ensure the resident has no physical condition which precludes living in the facility. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may meet this requirement. (II, III)

   **65.11(1) In addition to the required initial physical examination, each resident shall be evaluated to**

   identify physical health, current level of functioning and the need for services. This evaluation shall be completed within 30 days of admission and annually after that. Information from other sources may be used in the evaluation if the information meets the requirements of subrules 65.11(2) and 65.11(3). (II, III)

   **65.11(2) The portion of the evaluation which describes the resident’s physical health shall:**
a. Identify current illnesses and disabilities and include recommendations for physical and physiological treatment and services; (II, III)
b. Include a description of the resident’s ability for health maintenance; (II)
c. Include a mental status examination and history of mental health and treatments; (II, III) and
d. Be performed by a physician with a valid license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy in Iowa. If the evaluation is not conducted in Iowa, it must be by a physician who holds a current license in the state in which the examination is performed. If the doctor is not a psychiatrist, a psychiatrist or health service provider in psychology licensed under Iowa Code section 154B.7 shall be consulted regarding the results of the mental status examination. (II, III)

65.11(3) The portion of the evaluation which describes the resident’s current functioning level and need for services shall:
a. Identify the functioning level and need for services in self-care, community living skills, psychotherapeutic treatment, vocational skills, and academic skills as appropriate; (II, III)
b. Contain sufficient detail about skills and needs to determine appropriate placement; (II, III)
c. Be made without regard to the availability of services; (III) and
d. Be performed by a QMHP, consulting with an interdisciplinary team. (III)

65.11(4) Results of all evaluations shall be in writing and maintained in resident records. After the initial evaluation, all subsequent evaluations shall contain sufficient detail to determine changes in the resident’s physical and mental health, skills, and need for services. (II, III)

65.11(5) A narrative social history shall be completed for each resident within 30 days of admission. The social history shall be completed and approved by the qualified mental health professional before the IPP is developed. (III)
a. When a social history is secured from another provider, the information shall be reviewed within 30 days of admission. The date of the review and a summary of significant changes in the information shall be entered in the resident’s record. The social worker who reviews the history shall sign it. (III)
b. An annual review of the social history information shall be incorporated in the individual program plan progress notes. (III)
c. The social history shall address at least the following areas:
   (1) Referral source and reason for admission; (II, III)
   (2) Legal status; (II, III)
   (3) Previous living arrangements; (III)
   (4) Services received previously and current service involvements; (II, III)
   (5) Significant medical and mental health conditions including at least illnesses, hospitalizations, past and current drug therapy, and special diets; (II, III)
   (6) Substance abuse history; (II, III)
   (7) Work history; (III)
   (8) Education history; (II)
   (9) Relationship with family, significant others, and other support systems; (III)
   (10) Cultural, ethnic and religious background; (II, III)
   (11) Hobbies and leisure time activities; (III)
   (12) Likes, dislikes, habits, and patterns of behavior; (II, III)
   (13) History of aggressive or suicidal behavior; (I, II, III) and
   (14) Impressions and recommendations. (II, III)

This rule is intended to implement Iowa Code section 135C.14(7).

481—65.12(135C) Individual program plan (IPP). An initial program plan shall be developed within 24 hours of admission. This plan shall be based on information gained from the resident, family, physician or referring facility. Services to be provided shall be addressed. Intervention to be provided, if and when the need arises, shall also be addressed in the IPP. The plan shall be followed until the IPP required in subrule 65.12(1) is complete. The initial plan shall be completed by a registered nurse, a qualified social worker or a QMHP. (II, III)
65.12(1) An individual program plan for each resident shall be developed by an interdisciplinary team. The resident or the resident’s legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by the court. The IPP shall be approved and have implementation monitored by the QMHP. (II, III)
   a. The IPP shall be based on the individual service plan of the referring agency, if available, the information contained in the social history, the need for services identified in the evaluation, and any other pertinent information. (III)
   b. The facility shall assist the resident in obtaining access to academic services, community living skills training, legal services, self-care training, support services, transportation, treatment, and vocational education as needed. These services may be provided by the facility or obtained from other providers. (III)
   c. Services to the resident shall be provided in the least restrictive environment and shall incorporate the principle of normalization. (III)
   d. If needed services are not available and accessible, the facility shall document the actions taken to locate and obtain those services. The documentation shall identify needs which will not be met because of the lack of available services. (III)
   e. The IPP shall be developed within 30 days following admission to the facility and renewed at least annually. (II, III)
   f. The IPP shall be written, dated, signed by the interdisciplinary team members, and maintained in the resident’s record. (III)
   g. Written notice of the meeting to develop an IPP shall be mailed or delivered to everyone included in the interdisciplinary team conference at least two weeks before the scheduled meeting. (III)
65.12(2) The IPP shall include the following:
   a. Goals, (III)
   b. Objectives, (III)
   c. Specific services to be provided, (III)
   d. People or agency responsible for providing services, (III)
   e. Beginning date, (III) and
   f. Anticipated duration of services. (III)
65.12(3) The IPP shall set out the procedure to be used to evaluate whether objectives are achieved. This procedure shall incorporate a process for ongoing review and revision. (III)
65.12(4) The interdisciplinary team shall review the IPP at a team meeting at least quarterly and when the resident’s condition changes. (II, III)
   a. The interdisciplinary team shall develop a written report which addresses:
      (1) The resident’s progress toward objectives; (II, III)
      (2) The need for continued services; (II, III)
      (3) Recommendations concerning alternative services or living arrangements; (II, III) and
      (4) Any recommended change in guardianship, conservatorship or commitment status. (II, III)
   b. The report shall reflect those involved in the review, the date of the review, and be maintained in the resident’s record. (III)
65.12(5) There shall be procedures for recording the activities of each service provider and a mechanism to coordinate the activities of all service providers. Resident response to all activities shall be recorded. (III)
   a. Staff shall create a record at the time of a service required by the IPP. If this is not possible, the record shall be written no more than seven days later. (III)
   b. When the services are provided more than once a week, staff may make a monthly summarized entry in the resident’s record. (III)
   c. Entries shall be dated and signed by the person who provides the service. (III)
   d. Entries shall be made when incidents occur. (III)
Entries shall be written in terms of behavioral observations and specific activities. Entries that involve subjective interpretations of a resident’s behavior or progress shall be clearly identified and shall be supplemented with descriptions of behavior upon which the interpretation was based. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.13(135C) Activity program. Each ICF/PMI shall have an organized activity program which is directed by a person qualified as required by 65.9(3) “d.”

65.13(1) An activity program plan for the facility shall be based on needs identified in IPPs and on other interests expressed by residents. The activity program shall include leisure time management. (III)

65.13(2) Activities shall be offered at least daily during the daytime hours if residents are present, twice weekly in the evening and twice on the weekend. (III)

65.13(3) Activities offered shall be varied and shall be planned for individuals, small groups or large groups. (III)

65.13(4) Monthly calendars shall be prepared in advance and shall be kept for review by the department. Substitutions and cancellations shall be noted. (III)

65.13(5) Activities department personnel shall coordinate programs with other facility personnel. (III)

481—65.14(135C) Crisis intervention. There shall be written policies and procedures concerning crisis intervention. (II) These policies and procedures shall be:

1. Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches; (II, III)

2. Available in each program area and living unit; (II, III)

3. Available to individuals and their families; (II, III) and

4. Developed with the participation, as appropriate, of individuals served. (II, III)

65.14(1) Corporal punishment, physical abuse, and verbal abuse, for example, shouting, screaming, swearing, name calling, or any other activity which might damage an individual’s self-respect shall be prohibited. All residents shall be treated with fairness and respect as required by rule 65.25(135C). (II)

65.14(2) Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program. Direct care staff shall monitor residents on medication and notify the physician if a resident is too sedated to participate in the IPP. (I, II)

481—65.15(135C) Restraint or seclusion. Physician’s orders are required to use any kind of mechanical restraints or seclusion. (I, II, III) Restraints are defined as the following:

1. Type I is physical restraint which uses equipment to promote the safety of the individual. It is not applied directly to a person. Examples: divided doors and side rails.

2. Type II is mechanical restraint applied to someone’s body. A device is applied to the body to promote safety of the individual. Examples: vests or soft tie devices, hand socks, geriatric chairs.

3. Type III is mechanical restraint applied to any part of the body which inhibits only the movement of that part of the body. Examples: wrist, ankle or leg restraints and waist straps.

65.15(1) Temporary restraint of residents shall be used only to prevent injury to the resident or to others. (I, II)

65.15(2) Temporary seclusion may be used:

a. To prevent injury to the resident or to others; (I, II)

b. To prevent serious disruption to the treatment program of other residents; (I, II)

c. To decrease stimulation which contributes to psychotic behavior; (I, II) and

d. When other interventions have failed. (I, II)

Restraint and seclusion shall not be used for punishment, for the convenience of staff, or as a substitution for supervision of program. Seclusion shall be used only in a department approved seclusion room. (I, II)

65.15(3) Restraints shall be stored in an area easily accessible to staff. (I, II, III) Type II and Type III restraints shall be specifically designed, manufactured, and customarily used to restrain individuals
hospitalized in licensed psychiatric hospitals. Metal and plastic handcuffs, rope and makeshift devices are prohibited. (I, II)

65.15(4) Under no circumstances shall a resident be allowed to participate in the restraint of another resident. (I, II)

65.15(5) There shall be written policies that address the basic assumption and philosophy that govern the use of seclusion and physical and mechanical restraint. These shall:

a. Define the uses of seclusion and mechanical restraints; (III)
b. Designate staff who may authorize its use; (III)
c. Identify procedures to follow when implementing the policy which shall include provisions to ensure privacy and safety for restrained residents; (III) and
d. A written plan for treatment following the use of restraint or seclusion.

65.15(6) The physician and QMHP shall be notified immediately of the resident’s need for placement in restraint or seclusion. An order for restraint or seclusion identifying the type, purpose and duration of use shall be obtained from the physician. If the resident is in seclusion longer than four hours, the physician and qualified mental health professional shall visit and evaluate the resident before the seclusion order is continued. If the resident is in restraint for two hours, the physician shall be called before the restraint order can be continued. If the resident is in restraint longer than four hours, the physician and QMHP shall visit and evaluate the resident before a restraint order is continued. Standing or PRN orders for seclusion or restraint are prohibited. (I, II)

65.15(7) If a resident is restrained with Type II or Type III restraints for 6 hours or secluded for 12 hours in a 24-hour period; or if the resident is secluded or restrained with Type II or Type III restraints for any amount of time in three consecutive 24-hour periods, the physician and QMHP shall visit the resident and assess the resident’s need for a higher level of care. If the need for restraint or seclusion continues, the resident shall be transferred to an acute level of care. (I, II)

65.15(8) During any period of mechanical restraint or seclusion, the facility shall provide for the emotional and physical needs of the resident. (I, II)

65.15(9) The resident shall be informed of the reason for seclusion and restraint and conditions for release. The resident’s guardian shall be notified when Type II or Type III restraints or seclusion is used. The facility shall also notify the resident’s family or other significant person if the resident has previously signed a form granting consent to do so. (I, II, III)

65.15(10) Each resident’s record shall contain all information about restraints or seclusion. The administrator shall maintain a daily record of seclusion use. This record shall be available for review by the department. (II, III)

Documentation of each incident of restraint or seclusion shall include at least:

a. Clinical assessment before the resident is secluded or restrained; (I, II)
b. Circumstances that led to seclusion or restraint; (I, II)
c. Explanation of less restrictive measures used before restraint or seclusion; (I, II)
d. Physician’s order; (I, II)
e. Visual observation of the resident every 15 minutes, or more frequently if needed, to monitor general well-being including respirations, circulation, positioning and alertness as indicated; (I, II)
f. Description of the resident’s activity at the time of observation to include verbal exchange and behavior; (I, II)
g. Description of safety procedures taken (removal of dangerous objects, etc.); (I, II)
h. Vital signs, including blood pressure, pulse and respiration unless contraindicated by resident behavior and reasons documented; (I, II)
i. Release of each mechanical restraint and exercise and massage every two hours; (I, II, III)
j. Record of intake of food and fluid; (I, II, III)
k. Use of toilet; (II, III) and
l. Number of hours and minutes in seclusion. (II, III)

65.15(11) The facility shall educate staff on restraint and seclusion theory and techniques. The training shall be conducted by people with experience and documented education in the appropriate use of restraint and seclusion. (II, III)
a. The facility shall keep a record of the training for review by the department and shall include attendance. (II, III)
b. Only staff who have documented training in restraint and seclusion theory and techniques shall be authorized to assist with seclusion or restraint of a resident. (I, II, III)

65.15(12) The facility shall maintain a record of the hours and minutes of each type of restraint and seclusion used on a monthly basis.

481—65.16(135C) Discharge or transfer. Procedures for the discharge or transfer of the resident shall be established and followed. (II, III)

65.16(1) Discharge plan. The decision to discharge a person and the plan for doing so shall be established through the participation of the resident, members of the interdisciplinary team and other resource personnel as appropriate for the welfare of the individual. (II, III)
a. Discharge planning shall begin within 30 days of admission and be carried out in accordance with the IPP. (II, III)
b. As changes occur in a resident’s physical or mental condition necessitating services or care which cannot be adequately provided by the facility, the resident shall be transferred promptly to another appropriate facility pursuant to subrule 65.10(1). (II, III)
c. Notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)
d. Proper arrangements shall be made for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)
e. The licensee shall not refuse to discharge or transfer a resident when directed by the physician, resident, legal representative, or court. (II, III)
f. Advanced notification by telephone shall be made to the receiving facility prior to the transfer of any resident. (III)
g. When a resident is transferred or discharged, the current evaluation and treatment plan and progress notes for the last 30 days, as set forth in these rules, shall accompany the resident. (II, III)
h. 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 sent. (II, III)
i. A discharge or transfer authorization and summary shall be prepared for each resident who has been discharged or transferred from the facility. It shall be disseminated to appropriate persons to ensure continuity of care and in accordance with the requirements to ensure confidentiality. (II, III)
j. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

65.16(2) Intrafacility transfer. Residents shall not be arbitrarily moved from room to room within a health care facility. (II, III)
a. Involuntary relocation may occur only to implement goals and objectives in the IPP and in the following situations:
   (1) Incompatibility with or behavior disturbing to roommates, as documented in the residents’ records; (I, II)
   (2) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex; (II, III)
   (3) Reasonable and necessary administrative decisions regarding the use and functioning of the building. (II, III)
b. Unreasonable and unjustified reasons for changing a resident’s room without the concurrence of the resident or legal guardian include:
   (1) Punishment or behavior modification; (II) and
   (2) Discrimination on the basis of race or religion. (II, III)
c. If intrafacility relocation is necessary for reasons outlined in paragraph “a,” the resident shall be notified at least 48 hours prior to the transfer and the reason shall be explained. The legal guardian shall be notified as soon as possible. The notification shall be documented in the resident’s record and
signed by the resident or legal guardian within seven days unless documentation indicates that it was not possible to contact the legal guardian or obtain their signature. (II, III)

  d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family and legal guardian shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation, and the notification shall be documented. (II, III)

65.16(3) Involuntary discharge or transfer—reasons. Residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C which states that a resident shall be transferred or discharged only for the following:

  a. Medical reasons which include:

     (1) Acute stage of alcoholism, mental illness, or an active state of a communicable disease; (I, II)

or

     (2) Need for medical procedures as determined by a physician, or services which cannot be or are not being carried out in the facility; (I, II)

  b. Resident’s welfare or welfare of other residents which includes residents who are dangerous to themselves or other residents; (I) or

  c. Nonpayment except as prohibited by Medicaid. (II)

65.16(4) Involuntary transfer or discharge—written notice. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. (II) The 30-day requirement shall not apply in any of the following instances:

  a. If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and written medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff. (I, II)

  b. If the transfer or discharge is subsequently agreed to by the resident or by the resident’s legal guardian, and notification is given to the legal guardian, physician, and the person or agency responsible for the resident’s placement, maintenance and care in the facility. (II)

65.16(5) Contents of notice. The notice required by 65.16(4) shall contain all of the following information:

  a. The stated reason for the proposed transfer or discharge. (II)

  b. The effective date of the proposed transfer or discharge. (II)

  c. The following statement must be included:

   “You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration date of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” (II)

65.16(6) Stay of transfer or discharge. A request for a hearing made under 65.16(5) “c” shall stay a transfer or discharge pending a hearing or appeal decision. (II)

  a. The type of hearing determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by United States mail or delivered in person to the licensee, resident, legal guardian, and Iowa department on aging’s long-term care resident’s advocate/ombudsman of record not later than five full business days after receipt of the request. This notice shall also inform the licensee,
resident, and legal guardian that they have a right to appear at the hearing in person or be represented by their attorneys or other individuals. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department on aging’s long-term care resident’s advocate/ombudsman shall have the right to appear at the hearing. (II)

b. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to department rules. The licensee or designee shall have the opportunity to present oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and legal guardian shall also have an opportunity to present oral testimony or written material to show just cause why a transfer or discharge should not be made; the burden of proof rests on the party requesting the transfer or discharge. (II)

c. Based upon all testimony and materials submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact, conclusions of law, and issue a decision and order. This decision shall be mailed by regular mail to the licensee, resident, legal guardian, and department on aging’s long-term care resident’s advocate/ombudsman within ten working days after the hearing has been concluded. (II)

d. Based upon all testimony and material submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department on aging’s long-term care resident’s advocate/ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision. (II)

e. A copy of the notice required by 65.16(4) shall be personally delivered to the resident by the licensed facility and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s legal guardian, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department on aging’s long-term care resident’s advocate/ombudsman. (II)

f. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

g. The involuntary transfer or discharge shall be discussed with the resident, legal guardian, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and shall be made a part of the resident’s record. (II)

h. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record. Counseling shall be provided by a qualified individual who meets one of the following criteria:

1. Has a bachelor’s or master’s degree in social work from an accredited college; (II)

2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency; (II)
(3) Has been employed in a social work capacity for a minimum of four years in a public or private agency; (II) or
(4) Is a licensed psychologist or psychiatrist. (II)
   i. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be discharged or transferred. (II)
   j. The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)
   k. In the case of an emergency transfer or discharge as outlined in 65.16(4) “b,” the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 65.16(5). In addition, the notice must contain a statement in not less than 12-point type, which reads:
   “You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within seven days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.”
   A hearing requested pursuant to this subrule shall be held in accordance with 65.16(6) “a,” “b” and “c.” (II)
   l. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility’s license by the department. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities. (II)
   This rule is intended to implement Iowa Code sections 135C.14(8), 135C.31, 135C.43, and 135C.46.

481—65.17(135C) Medication management. Medications shall be prescribed on an individual basis by a person who is authorized by Iowa law to prescribe. (I, II)
   1. Medication orders shall be correctly implemented by qualified personnel. (II)
   2. Qualified staff shall ensure that residents are able to take their own medication. (I, II)
   3. Each physician order allowing a resident to self-administer medications shall specify whether this self-medication shall be without supervision or under the supervision of qualified staff as defined in 65.17(2). (I, II)

65.17(1) A properly trained person shall be charged with the responsibility of administering nonparenteral medications.
   a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.
   b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.
   c. Prior to taking a department-approved medication aide course, the individual shall:
      (1) Successfully complete an approved nurse aide course, nurse aide training and testing program or nurse aide competency examination.
      (2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.
      (3) Have a letter of recommendation for admission to the medication aide course from the employing facility.
d. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:
   (1) Complete a clinical or nursing theory course within six months before taking the challenge examination;
   (2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;
   (3) Provide to the community college a written statement from the nursing program’s pharmacology or clinical instructor indicating the individual is competent in medication administration;
   (4) Successfully complete a department-approved nurse aide competency evaluation.

e. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph “c” of this subrule do not apply to this individual.

f. Unit dose medication shall remain in the identifiable unit dose package until given to the resident. (II)

g. Medications that are not contained in unit dose packaging shall be set up, identified by resident name and medication name, and administered by the same person. The medications shall be administered within one hour of preparation. (II)

h. The person administering medications must observe and check to make sure the resident swallows oral medications and must record the date, time, amount and name of each medication given. (II)

i. Injectable medications shall not be administered by anyone other than a prescriber or licensed nurse except when residents have been certified by a physician as capable of taking their insulin. When a resident has been certified as capable of taking insulin, the resident may prepare and inject the insulin. (II)

j. Current and accurate records must be kept on the receipt and disposition of all Schedule II drugs. (II, III)

65.17(2) For each resident who is taking medication with or without supervision, there shall be documentation on the individual’s record to include:

a. Name of resident; (II, III)

b. Name of drug, dose, and schedule; (II, III)

c. Method of administration; (II, III)

d. Identified drug allergies and observed adverse reactions; (I, II)

e. Special precautions for that resident; (I, II) and

f. Documentation of resident’s continuing ability to administer own medication. (I, II)

65.17(3) Medication counseling shall be provided for all residents in accordance with the IPP on an ongoing basis and as part of discharge planning unless contraindicated in writing by the physician with reasons and pursuant to 65.12(2)“c. ” (II, III)

Each resident and when appropriate, a family member or other identified caregiver, shall be given verbal and written information about all medications the resident is currently using, including over-the-counter medications. A suggested reference is “USPDI, Advice for the Patient.” (II, III)

The information shall include:

a. Name, reason for, and amount of medication to be taken; (II)

b. Time medication is to be taken and reason that the schedule was established; (II)

c. Possible benefits, risks and side effects of each medication, including over-the-counter medications; (II)

d. A list of resources in the community qualified to answer questions about medications; (II, III) and

e. A list of available resources or agencies which may assist the resident to obtain medication after discharge. (III)
65.17(4) Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in a secure centralized location. Individual locked storage shall be utilized. (II, III)

   a. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:
      (1) Adequate size cabinet with lock which can be used for storage of drugs, solutions, and prescriptions. A locked drug cart may be used. (II, III)
      (2) A bathroom shall not be used for drug storage. (II, III)
      (3) The drug storage cabinet shall be kept locked when not in use. (II, III)
      (4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medication. (II, III)
      (5) Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box properly labeled, and separated from food and other items. (II, III)
      (6) Drugs for external use shall be stored separately from drugs for internal use. External medications are those to be applied to the outside of the body and include, but are not limited to, salves, ointments, gels, paste, soaps, baths, and lotions. Internal medications are those to be applied inside the body or ingested and include, but are not limited to, oral and injectable medications, eye drops and ointments, ear drops and ointments, and suppositories. Also, eye drops and ear drops shall be separated from each other as well as from other internal and external medications. (II, III)
      (7) All potent, poisonous, or caustic materials shall be stored in a separate room from the medications. (II, III)
      (8) Inspection of the condition of stored drugs shall be made by the administrator and a licensed pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but need not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current order, and drugs improperly stored. (III)
      (9) Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a seven-day supply and a missing dose can be readily detected but must be kept in a locked medication cabinet. Quantities in excess of a seven-day supply must be double-locked. (II)

   b. Bulk supplies of prescription drugs shall not be kept. (III)

65.17(5) All labels on medications must be legible. If labels are not legible, the medication shall be sent back to the dispenser as defined in Iowa Code section 147.107 for relabeling. (II, III)

   a. The medication for each resident shall be kept or stored in the original dispensed containers. (II, III)
   b. The facility shall adopt policies and procedures to destroy unused prescription drugs for residents who die. The policies and procedures shall include, but not be limited to, the following:
      (1) Drugs shall be destroyed by the person in charge in the presence of the administrator or the administrator’s designee or, if a unit dose system is used, the drugs shall be returned to the supplying pharmacist; (III)
      (2) Notation of the destruction shall be made in the resident’s chart, with signatures of the persons involved in the destruction; (III)
      (3) The manner in which the drugs are disposed of shall be identified (i.e., incinerator, sewer, landfill). (II, III)
   c. Reserved.
   d. The facility shall also adopt policies and procedures for the disposal of controlled substances as defined by the Iowa board of pharmacy dispensed to residents whose administration has been discontinued by the prescriber. These policies and procedures shall include, but not be limited to, the following:
      (1) Procedures for obtaining a release from the resident; (II, III)
      (2) The manner in which the drugs were destroyed and by whom, including witnesses to the destruction; (II, III)
(3) Mechanisms for recording the destruction; (II, III)

(4) Procedures to be used when the resident or the conservator or guardian refuses to grant permission for destruction. (II, III)

c. The facility shall adopt policies and procedures for the disposal of unused, discontinued medication. The procedures shall include, but not be limited to:

1. A specified time after which medication must be destroyed, sent back to the dispenser or placed in long-term storage; (II, III)

2. Procedures for obtaining permission of the resident, or the conservator or guardian; (II, III)

3. Procedures to be used when the resident, conservator or guardian refuses to grant permission for disposal; (II, III)

4. Unused, discontinued medication shall be locked and shall be separate from current medication. (II, III)

f. Reserved.

g. Residents shall not keep any prescription or over-the-counter medication in their possession unless the resident has been determined to be capable of self-administration of medications. (I, II, III)

h. No prescription drugs shall be administered to a resident without a written order signed by a person qualified to prescribe the medication and renewed quarterly. (II)

i. Prescription drugs shall be reordered only with the permission of the attending prescriber. (II, III)

j. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

65.17(6) Each facility shall establish policies and procedures to govern the administration of prescribed medications to residents on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident’s name, the facility, the medication, its strength, dose, and time of administration. (II, III)

b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners. (II, III)

c. Medication distributed as described in this subrule may be issued only by facility personnel responsible for administering medication. (II, III)

65.17(7) Each ICF/PMI that administers controlled substances shall annually obtain a registration from the Iowa board of pharmacy examiners pursuant to Iowa Code section 204.302(1). (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.18(135C) Resident property and personal affairs. The admission of a resident does not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident’s legal guardian. (II, III)

65.18(1) The admission of a resident shall not grant the ICF/PMI the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the resident’s safety and for safe and orderly management of the facility as required by these rules and in accordance with the IPP. (III)

65.18(2) An ICF/PMI shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

65.18(3) Residents’ funds held by the ICF/PMI shall be in a trust account and kept separate from funds of the facility. (III)

65.18(4) No administrator, employee or their representative shall act as guardian, trustee, or conservator for any resident or the resident’s property, unless the resident is related to the person acting as guardian within the third degree of consanguinity. (III)
65.18(5) If a facility is a county care facility, upon the verified petition of the county board of supervisors, the district court may appoint, without fee, the administrator of a county care facility as conservator or guardian, or both, of a resident of such a county care facility. The administrator may establish either separate or common bank accounts for cash funds of these residents. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—65.19(135C) Financial affairs. Residents who have not been assigned a guardian or conservator by the court may manage their personal financial affairs, and to the extent, under written authorization by the residents that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

65.19(1) Written account of resident funds. The facility shall maintain a written account of all residents’ funds received by or deposited with the facility. (II)

a. An employee shall be designated in writing to be responsible for resident accounts. (II)

b. The facility shall keep on deposit personal funds over which the resident has control when requested by the resident. (II)

c. If the resident requests these funds, they shall be given to the resident with a receipt maintained by the facility and a copy to the resident. If a conservator or guardian has been appointed for the resident, the conservator or guardian shall designate the method of disbursing the resident’s funds. (II)

d. If the facility makes a financial transaction on a resident’s behalf, the resident or the resident’s legal guardian or conservator must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident’s financial or business record. (II)

65.19(2) Contracts. There shall be a written contract between the facility and each resident which meets the following requirements:

a. States the base rate or scale per day or per month, the services included, and the method of payment; (III)

b. Contains a complete schedule of all offered services for which a fee may be charged in addition to the base rate; (III)

c. Stipulates that no further additional fees shall be charged for items not contained in complete schedule of services listed in this subrule; (III)

d. States the method of payment of additional charges; (III)

e. Contains an explanation of the method of assessment of additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

f. States that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

g. Contains an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident’s current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator; (III)

h. Includes the total fee to be charged initially to the specific resident; (III)

i. States the conditions whereby the facility may make adjustments to its overall fees for residential care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

(1) Written notification to the resident and responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of changes; (III)

(2) Notification to the resident and payer, when appropriate, of changes in additional charges based on a change in the resident’s condition. Notification must occur prior to the date the revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III) and

(3) The terms of agreement in regard to refund of all advance payments, in the event of transfer, death, or voluntary or involuntary discharge; (III)
j. States the terms of agreement concerning holding and charging for a bed in the event of temporary absence of the resident, which terms shall include, at a minimum, the following provisions:
   (1) If a resident has a temporary absence from a facility for medical treatment, the facility shall hold the bed open and shall receive payment for the absent period in accordance with provisions of the contract between the resident or the legal guardian and the facility. (II)
   (2) If a resident has a temporary absence from a facility in accordance with the IPP, the facility shall ask the resident and payer if they wish the bed held open. This shall be documented in the resident’s record including the response. The bed shall be held open and the facility shall receive payment for the absent periods in accordance with the provisions of the contract between the resident or the legal guardian and the facility. (II)

k. States the conditions under which the involuntary discharge or transfer of a resident would be affected; (III)

l. States the conditions of voluntary discharge or transfer; (III) and

m. Sets forth any other matters deemed appropriate by the parties to the contract. No contract or any provision shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

65.19(3) Contract—copy to party. Each party shall receive a copy of the signed contract. (III)

65.19(4) The contract shall state the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident’s legal representative.

   a. The facility shall ask the resident or legal representative if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

   b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

This rule is intended to implement Iowa Code sections 135C.23(1) and 135C.24.

481—65.20(135C) Records.

65.20(1) Resident record. The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. (II) The record shall include:

   a. Name and previous address of resident; (III)
   b. Birth date, sex, and marital status of resident; (III)
   c. Church affiliation; (III)
   d. Physician’s name, telephone number, and address; (III)
   e. Dentist’s name, telephone number, and address; (III)
   f. Name, address and telephone number of next of kin or legal representative; (III)
   g. Name, address and telephone number of the person to be notified in case of emergency; (III)
   h. Funeral director, telephone number, and address; (III)
   i. Pharmacy name, telephone number, and address; (III)
   j. Results of evaluation pursuant to rule 481—65.11(135C); (III)
   k. Certification by the physician that the resident requires no higher level of care than the facility is licensed to provide; (III)
   l. Physician’s orders for medication and treatments in writing, signed by the physician quarterly and diet orders renewed yearly; (III)
   m. A notation of yearly or other visits to physician or other professionals, all consultation reports and progress notes; (III)
   n. Any change in the resident’s condition; (II, III)
   o. A notation describing the resident’s condition on admission, transfer, and discharge; (III)
   p. In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s
body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)

q. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

r. Disposition of personal property; (III)

s. Copy of IPP pursuant to subrule 65.12(1); (III) and

t. Progress notes pursuant to subrules 65.12(4) and 65.12(5). (III)

65.20(2) Confidentiality of resident records. The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automatic data bank. The resident’s or the resident’s legal guardian’s written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the information being released, how the information is to be used, and the period of time for which the release is in effect. A third party, not requesting the release, shall witness the signing of the release of information form. (II)

a. The facility shall limit access to any resident records to staff and consultants providing professional service 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. (II)

Only those personnel concerned with financial affairs of the residents may have access to the financial information. This is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

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 QMHP determines the disclosure of the record or section is contraindicated in which case this information will be deleted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident’s record by the physician or qualified mental health professional in collaboration with the resident’s interdisciplinary team. (II)

65.20(3) Incident records. Each ICF/PMI shall maintain an incident record report and shall have available incident report forms. (II, III)

a. The report of every incident shall be in detail on a printed incident report form. (II, III)

b. The person in charge at the time of the incident shall oversee the preparation and sign the report. (III)

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

65.20(4) Retention of records. 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. (III)

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. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—65.21(135C) Health and safety.

65.21(1) Physician. Each resident shall have a designated licensed physician who may be called when needed. (III)

65.21(2) Emergency care. Each facility shall have written policies and procedures for emergency medical or psychiatric care to include:

a. A written agreement with a hospital or psychiatric facility or documentation of attempt to obtain a written agreement for the timely admission of a resident who, in the opinion of the attending physician, requires inpatient services; (II, III)

b. Provisions consistent with Iowa Code chapter 229; (II, III) and
c. Immediate notification by the person in charge to the physician or QMHP, as appropriate, of any accident, injury or adverse change in the resident’s condition. (I, II)

65.21(3) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

65.21(4) *Infection control.* Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

c. Decubitus care; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of enteral feeding bags, feeding syringes and urine collection bags; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III) and

i. Aseptic techniques when using:

(1) Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

(2) Urinary catheter, (I, II, III)

(3) Respiratory suction, oxygen or humidification, (I, II, III)

(4) Dressings, soaks, or packs, (I, II, III)

(5) Tracheostomy, (I, II, III)

(6) Nasogastric or gastrostomy tubes, (I, II, III)

(7) Sanitary use and reuse of feeding syringes and single-resident uses and reuse of urine collection bags. (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

65.21(5) *Disposable items.* There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by 65.21(4) ‘g.’

65.21(6) *Infection control committee.* Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. (III)

a. The committee shall annually review and revise the infection control policies and procedures to monitor effectiveness and suggest improvement. (III)

b. The committee shall meet at least quarterly, submit reports to the administrator, and maintain minutes in sufficient detail to document its proceedings and actions. (III)

c. The committee shall monitor the health aspect and the environment of the facility. (III)

These rules are intended to implement Iowa Code sections 135C.14(3), 135C.14(5) and 135C.14(8).

65.21(7) *Dental services.* The facility shall assist residents to obtain regular and emergency dental services and provide necessary transportation. Dental services shall be performed only on the request of the resident or legal guardian. The resident’s physician shall be advised of the resident’s dental problems. (III)
65.21(8) Safe environment. The licensee of an ICF/PMI is responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II) The ICF/PMI may have locked exit doors and shall meet the fire and safety rules and regulations as promulgated by the state fire marshal. (I, II)

65.21(9) Disaster. The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (II, III)
   a. The plan shall be posted. (II, III)
   b. Training shall be provided to ensure that all employees and residents are knowledgeable of the emergency plan. The training shall be documented. (II, III)
   c. Residents shall be permitted to smoke only in posted areas where proper facilities are provided. Smoking by residents considered to be careless shall be prohibited except under direct supervision and in accordance with the IPP. (II, III)

65.21(10) Safety precautions. The facility shall take reasonable measures to ensure the safety of residents and shall involve the residents in learning the safe handling of household supplies and equipment in accordance with the policies and procedures established by the facility. (II)
   All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific locked, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

65.21(11) Hazards. Entrances, exits, steps, and outside steps and walkways shall be cleared of ice and snow as soon as possible, and kept free of other hazards. (II, III)

65.21(12) Laundry. All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)
   a. Except for related activities, the laundry room shall not be used for other purposes. (III)
   b. Personal laundry shall be marked with an identification unless the residents are responsible for doing their own laundry as indicated in the individual program plan. (III)
   c. There shall be an adequate supply of clean, stain-free linens so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)
   d. Each bed shall be provided with clean, stain-free washable bedspreads and sufficient lightweight serviceable blankets. A complete change of bed linens shall be available for each bed. Linens on beds shall be clean, stain-free and in good repair at all times. (III)

65.21(13) Supplies, equipment, and storage. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines, newspapers, radio, television, bulletin boards, board games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, and outdoor equipment. Supplies and equipment shall be appropriate to the chronological age of the residents. (III)
   Storage shall be provided for recreational equipment and supplies. (III)
   This rule is intended to implement Iowa Code section 135C.14(1).

481—65.22(135C) Nutrition. There shall be policies and procedures written and implemented for dietary staffing.
   1. The person responsible for planning menus and monitoring the kitchens in each facility shall have completed training, approved by the department, in sanitation and food preparation. (III)
   2. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)
   3. There shall be written work schedules and time schedules covering each type of job in the food service department for facilities over 15 beds. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area. (III)

65.22(1) Nutrition and menu planning. Residents shall be encouraged to the maximum extent possible to participate in meal planning, shopping, and in preparing and serving the meal and cleaning up. The facility shall be responsible for helping residents become knowledgeable of what constitutes a nutritionally adequate diet. (III)
   a. Menus shall be planned and served to meet nutritional needs of residents in accordance with the physician’s diet orders which shall be renewed yearly. Menus shall be planned and served to include
foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. Other foods shall be included to meet energy requirements (calories) to add to the total nutrients and variety of meals. (II, III)

b. At least three meals or their equivalent shall be made available to each resident daily, consistent with those times normally existing in the community. (II, III)

(1) There shall be no more than a 14-hour span between the substantial evening meal and breakfast. (III)

(2) To the extent medically possible, bedtime nourishments, containing a protein source, shall be offered routinely to all residents. Special nourishments shall be available when ordered by the physician. (II, III)

c. Menus shall include a variety of foods prepared in various ways. The same menus shall not be repeated on the same day of the following week. (III)

d. If modified diets are ordered by the physician, the person responsible for writing the menus shall have completed department-approved training in simple therapeutic diets. A copy of a modified diet manual approved by the department and written within the past five years shall be available in the facility. (II, III)

e. Therapeutic diets shall be served accurately. (II, III)

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

g. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

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

65.22(2) Dietary storage, food preparation, service. In each stage, food shall be handled with maximum care for safety and good health.

a. The use of foods from salvaged, damaged, or unlabeled containers is prohibited. (II, III)

b. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (II, III)


d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. (III)

e. If family-style service is used, all leftover prepared food that has been on the table shall be safely handled. (III)

f. Poisonous compounds shall not be kept in food storage or preparation areas except for a sanitizing agent which shall be kept in a locked cabinet. (II, III)

65.22(3) Sanitation in food preparation area. The facility shall develop and implement policies and procedures to address sanitation, meal preparation and service in accordance with recommendations in the “Food Service Sanitation Manual” reference in 65.22(2) “c,” which shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with the department’s food service and sanitation rules. (III)

a. In facilities of 15 beds or fewer, residents may be allowed in the food preparation area in accordance with their IPP. (III)

b. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

c. All appliances and work areas shall be kept clean and sanitary. (III)

d. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds and a schedule of duties to be performed daily shall be posted in each food area. (III)
e. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff in facilities over 15 beds. (III)

f. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

g. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

65.22(4) Hygiene of food service personnel. If food service employees are assigned duties outside the dietary service, these duties shall not interfere with sanitation, safety, or time required for dietary work assignments. (II, III)

a. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area in facilities over 15 beds. (III)

b. Hair nets shall be worn by all food service personnel and residents who do work in the kitchen in facilities over 15 beds and effective hair restraints in facilities with fewer than 15 beds. (III)

c. People who handle food shall use correct hand-washing and food-handling techniques as identified in the “Food Service Sanitation Manual.” People who handle dirty dishes shall not handle clean dishes without washing their hands. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.23(135C) Physical facilities and maintenance.

65.23(1) Housekeeping. The facility shall have written procedures for daily and weekly cleaning (III) which include, but need not be limited to:

a. All rooms including furnishings, all corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment or accumulations of refuse. (III)

b. All resident bedrooms, including furnishings, shall be cleaned and sanitized before use by another resident. (III)

c. Polishes used on floors shall provide a slip-resistant finish. (III)

65.23(2) Equipment. Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

a. All facilities shall be provided with clean and sanitary storage for cleaning equipment, supplies, and utensils. In facilities over 15 beds, a janitor’s closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor’s sink for emptying scrub pails. A hallway or corridor shall not be used for storage of equipment. (III)

b. Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

c. All containers for trash shall be watertight, rodent-proof, and have tight-fitting covers and shall be thoroughly cleaned each time a container is emptied. (III)

d. All wastes shall be properly disposed of in compliance with the local ordinances and state codes. (III)

65.23(3) Bedrooms. Each resident shall be provided with a bed, substantially constructed and in good repair. (III)

a. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately 5 inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident’s personal wishes shall be considered and documented. (III)

d. There shall be drawer space for each resident’s clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

e. There shall be a bedside table with a drawer and a reading lamp for each resident. (III)

f. All furnishings and equipment shall be durable, cleanable, and appropriate to its function. (III)
g. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere and in a manner which is age and culture appropriate. (III)

h. Upholstery materials shall be moisture- and soil-resistant, except on furniture which is provided and owned by the resident. (III)

i. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

j. Beds shall not be placed with the side of the bed against a radiator or in close proximity to it unless the radiator is covered to protect the resident from contact with it or from excessive heat. (III)

65.23(4) Bath and toilet facilities. All lavatories shall have nonreusable towels or an air dryer and an available supply of soap. (III)

65.23(5) Dining and living rooms. Dining rooms and living rooms shall be available for use by residents at appropriate times to allow social, diversional, individual, and group activities. (III)

a. Every facility shall have a dining room and a living room easily accessible to all residents which are never used as bedrooms. (III)

b. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 481—subrule 61.6(2) are met. (III)

c. Living rooms shall be suitably furnished and maintained for the use of residents and their visitors and may be used for recreational activities. (III)

d. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

65.23(6) Family and employee accommodations. Resident bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

a. In facilities where the total occupancy of family, employees, and residents is five or fewer, one toilet and one tub or shower is the minimum requirement. (III)

b. In all health care facilities, if the family or employees live within the facility, living quarters shall be required for the family or employees separate from areas provided for residents. (III)

65.23(7) Pets—policies. Any facility in which a pet is living shall implement written policies and procedures addressing the following:

a. Vaccination schedule; (III)

b. Veterinary visit schedule; (III)

c. Housing or sleeping quarters; (III) and

d. Assignment of responsibility for feeding, bathing and cleanup. (III)

65.23(8) Maintenance. Each facility shall establish a program to ensure continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout. In facilities over 15 beds, this program shall be in writing and be available for review by the department. (III)

a. The buildings, furnishings and grounds shall be maintained in a clean, orderly condition and be in good repair. (III)

b. The buildings and grounds shall be kept free of flies, other insects, rodents, and their breeding areas. (III)

65.23(9) Buildings, furnishings, and equipment.

a. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per employee on duty from 6 p.m. to 6 a.m. (III)

b. All windows shall be supplied with curtains and shades or drapes which are kept in good repair. (III)

c. Wherever glass sliding doors or transparent panels are used, they shall be marked conspicuously and decoratively. (III)

65.23(10) Water supply. Every facility shall have an adequate water supply from an approved source. A municipal source of water shall be considered as meeting this requirement. Private sources of water to a facility shall be tested annually and the report submitted with the annual application for license. (III)

a. A bacterially unsafe source of water shall be grounds for denial, suspension, or revocation of license. (III)
b. The department may require testing of private sources of water to a facility at its discretion in addition to the annual test. The facility shall supply reports of tests as directed by the department. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.24(135C) Care review committee. Each facility shall have a care review committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for care review committees promulgated by the department on aging. (III)

65.24(1) Role of committee in complaint investigations.

a. The department shall notify the facility’s care review committee of a complaint from the public. The department shall not disclose the name of a complainant.

b. The department may refer complaints to the care review committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department on aging. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation of the investigation.

c. When the department investigates a complaint, upon conclusion of its investigation, it shall notify the care review committee and the department on aging of its findings, including any citations and fines issued.

d. Results of all complaint investigations addressed by the care review committee shall be forwarded to the department within ten days of completion of the investigation.

65.24(2) Complaints monitored. The care review committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.

65.24(3) Family member information. When requested, names, addresses and telephone numbers of family members shall be given to the care review committee, unless the family refuses. The facility shall provide a form on which a family member may refuse to have the member’s name, address or telephone number given to the care review committee.

This rule is intended to implement Iowa Code section 135C.25.

481—65.25(135C) Residents’ rights in general. Each facility shall ensure that policies and procedures are written and implemented which include at least provisions in subrules 65.25(1) to 65.25(21). These shall govern all services provided to staff, residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually. (II)

65.25(1) Grievances. Written policies and procedures shall include a method for submitting grievances and recommendations by residents or their legal representatives and for ensuring a response and disposition by the facility. The written procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. An employee or an alternate designated to be responsible for handling grievances and recommendations; (II)

b. Methods to investigate and assess the validity of a grievance or recommendation; (II) and

c. Methods to resolve grievances and take action. (II)

65.25(2) Informed of rights. Policies and procedures shall include a provision that residents be fully informed of their rights and responsibilities as residents and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or when the facility adopts or amends residents’ rights policies. It shall be posted in locations accessible to all residents. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from residents. The facility shall communicate these expectations during a period not more than two weeks before or later than five days after admission. The communication shall be in writing in a separate handout or brochure describing the facility. It shall be interpreted verbally, as part of a predemission interview, resident counseling, or in individual or group orientation sessions after admission. (II)

b. Residents’ rights and responsibilities shall be presented in language understandable to residents. If the facility serves residents who do not speak English or are deaf, steps shall be taken to translate the information into a foreign or sign language. Blind residents shall be provided either Braille or a
Residents shall be encouraged to ask questions about their rights and responsibilities. Their questions shall be answered. (II)

c. A statement shall be signed by the resident and legal guardian, if applicable, to indicate the resident understands these rights and responsibilities. The statement shall be maintained in the record. The statement shall be signed no later than five days after admission. A copy of the signed statement shall be given to the resident or legal guardian. (II)

d. All residents, next of kin, or legal guardian shall be advised within 30 days of changes made in the statement of residents’ rights and responsibilities. Appropriate means shall be used to inform non-English-speaking, deaf or blind residents of changes. (II)

65.25(3) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from physical, sexual, mental and verbal abuse, exploitation, and physical injury. (I, II)

65.25(4) Claim of abuse. Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain the separation until the abuse investigation is completed. (I, II)

65.25(5) Report of abuse. Pursuant to Iowa Code chapter 235B, a mandatory reporter of dependent adult abuse is any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse. This includes a member of the staff or employee of a health care facility. (II, III)

If a staff member or employee is required to report pursuant to this subrule, the staff member or employee shall immediately notify the person in charge of the facility or the person’s designated agent, and the person in charge or the designated agent shall make the report to the department of human services. (II, III)

65.25(6) Informed of health condition. Each resident or legal guardian shall be fully informed by a physician of the health and medical condition of the resident unless a physician documents reasons not to in the resident’s record. (II)

65.25(7) Research. The resident or legal guardian shall decide whether a resident participates in experimental research. Participation shall occur only when the resident or guardian is fully informed and signs a consent form. (II, III)

Any clinical investigation involving residents must be sponsored by an institution with a human subjects review board functioning in accordance with the requirement of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended December 1, 1981 (45 CFR 46). (III)

65.25(8) Resident work. Services performed by the resident for the facility shall be in accordance with the IPP. (II)

a. Residents shall not be used to provide a source of labor for the facility against the resident’s will. Physician’s approval is required for all work programs and must be renewed yearly. (II, III)

b. If the individual program plan requires activities for therapeutic or training reasons, the plan for these activities must be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II, III)

c. A resident engaged in work programs in the ICF/PMI shall be paid wages commensurate with wage and hour regulations for comparable work and productivity. (II)

d. The resident shall have the right to employment options commensurate with training and skills. (II)

e. Residents performing work shall not be used to replace paid employees to fulfill staff requirements. (II)

65.25(9) Encouragement to exercise rights. Residents shall be encouraged and assisted throughout their period of stay to exercise resident and citizen rights. Residents may voice grievances and recommend changes in policies and services to administrative staff or to an outside representative of their choice free from interference, coercion, discrimination, or reprisal. (II)

65.25(10) Posting names. The facility shall post the name, telephone number, and address of the:

a. Long-term care resident’s advocate/ombudsman; (II)
b. Survey agency; (II)
c. Local law enforcement agency; (II)
d. Care review committee members; (II)
e. Administrator; (II)
f. Members of the board of directors; (II)
g. Corporate headquarters; (II) and the
h. Iowa Protection and Advocacy Services, Inc. (II)

The text of Iowa Code section 135C.46 shall also be available to provide residents another course of redress. These items shall be posted in an area where residents and visitors can read them. (II)

65.25(11) Dignity preserved. Residents shall be treated with consideration, respect, and full recognition of their dignity and individuality, including privacy in treatment and in care of personal needs. (II)

a. 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. (II)

b. Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents’ individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating, and times to retire at night and arise in the morning shall be elicited and considered by the facility. The facility shall make every effort to match nonsmokers with other nonsmokers. (II)

c. Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules; however, residents shall be encouraged to participate in recreational programs. (II)

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 a resident shall not be present without the resident’s consent during examination or treatment. (II)

e. Privacy for each person shall be maintained when residents are being taken to the toilet or being bathed and while they are being helped with other types of personal hygiene, except as needed for resident safety or assistance. (II)

f. Staff shall knock and be acknowledged before entering a resident’s room unless the resident is not capable of response. This does not apply under emergency conditions. (II)

65.25(12) 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 IPP which has explicit approval of the resident or legal guardian. Telephones consistent with ANSI standards 42 CFR 405.1134(c) (10-1-86) 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. (II)

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

65.25(13) Visiting policies and procedures. Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

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). (II)

(2) The visit would not be in accordance with the IPP. (II)

(3) The visitor’s behavior is unreasonably disruptive to the functioning of the facility. (II)

Reasons for denial of visitation shall be documented in resident records. (II)

b. Decisions to restrict a visitor shall be reevaluated at least quarterly by the QMHP or at the resident’s request. (II)

c. Space shall be provided for residents to receive visitors in comfort and privacy. (II)
65.25(14) Resident activities. Each resident may participate in activities of social, religious, and community groups as desired unless contraindicated for reasons documented by the attending physician or qualified mental health professional, as appropriate, in the resident’s record. (II)

Residents who wish to meet with or participate in activities of social, religious or community groups in or outside the facility shall be informed, encouraged, and assisted to do so. (II)

Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, QMHP, or facility administrator for refusing permission. (II)

65.25(15) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided use is not otherwise prohibited in these rules. (II)

a. Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a secure location which is convenient to the resident. (II)

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. (II)

c. Any personal clothing or possession 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. They shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

65.25(16) Sharing rooms. Residents, including spouses staying in the same facility, shall be permitted to share a room, if available, if requested by both parties, unless reasons to the contrary are in the IPP. Reasons for denial shall be documented in the resident’s record. (II)

65.25(17) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy. The facility may require the pharmacy selected to use a drug distribution system compatible with the system currently used by the facility. (II)

481—65.26(135C) Incompetent residents. Each facility shall provide that all rights and responsibilities of incompetent residents devolve to the legal guardian when a hearing has been held and the resident is judged incompetent in accordance with state law. (II)

A facility is not absolved from advising incompetent residents of their rights to the extent the resident is able to understand them. The facility shall also advise the legal guardian, if any, and acquire a statement indicating an understanding of resident’s rights. (II)

This rule is intended to implement Iowa Code sections 135C.14(8) and 135C.24.

481—65.27(135C) County care facilities. In addition to these rules, county care facilities licensed as intermediate care facilities for persons with mental illness must also comply with department of human services rules 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

This rule is intended to implement Iowa Code section 227.4.

481—65.28(135C) Violations. Classification of violations is I, II and III, determined by the division using the provisions in 481—Chapter 56, “Fining and Citations,” to enforce a fine to cite a facility.

481—65.29(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of this rule. (I, II, III)
65.29(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:
   a. Health and safety risks for residents;
   b. Compatibility of the proposed business or activity with the facility program;
   c. Noise created by the proposed business or activity;
   d. Odors created by the proposed business or activity;
   e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
   f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
   g. Proposed staffing for the business or activity;
   h. Sharing of services and staff between the proposed business or activity and the facility;
   i. Facility layout and design; and
   j. Parking area utilized by the business or activity.

65.29(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

65.29(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 61. (I, II, III)

481—65.30(135) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

65.30(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

65.30(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

65.30(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

65.30(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.


[Filed 11/20/91, Notice 8/7/91—published 12/11/91, effective 1/15/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
CHAPTER 133
WHITE FLASHING LIGHT AUTHORIZATION

641—133.1(321) Definitions. For the purpose of these rules, the following definitions shall apply:

“Ambulance” means ambulance as defined in 641—132.1(147A).

“Ambulance service” means ambulance service as defined in 641—132.1(147A).

“Authorization certificate” means a permit issued to an emergency medical care provider which authorizes the use of a white flashing light.

“Authorized vehicles” means any vehicles owned by members of the service program that are authorized by the department to use flashing white lights.

“Department” means Iowa department of public health.

“Emergency medical care provider” means emergency medical care provider as defined in 641—131.1(147A).

“First response vehicle” means first response vehicle as defined in 641—132.1(147A).

“Medical director” means medical director as defined in 641—132.1(147A).

“Member” means any individual utilized by an ambulance or nontransport service to provide emergency medical care.

“Nontransport service” means nontransport service as defined in 641—132.1(147A).

“Rescue vehicle” means rescue vehicle as defined in 641—132.1(147A).

“Service director” means service director as defined in 641—132.1(147A).

“Service program” or “service” means service program as defined in 641—132.1(147A).

“White light” means a white or clear rotating, flashing, or strobe lighting device utilized for identification purposes only. Any such lighting device shall not display a constant white or clear light to the rear of the vehicle.

[ARC 0901C; IAB 8/7/13, effective 9/11/13]

641—133.2(321) Purpose.

133.2(1) Flashing white lights may be used on emergency vehicles or other authorized vehicles utilized by emergency medical care providers and service programs for identification purposes only.

133.2(2) Flashing white lights shall be used only on an authorized vehicle and shall not be used except in any of the following circumstances:

a. When responding to an emergency in the line of duty requiring the services of the member.

b. When at the scene of an emergency.

c. When transporting a patient during a disaster situation.

133.2(3) Owners and operators of authorized vehicles are responsible for ensuring that the lighting devices are utilized in a safe manner. This shall include, but not be limited to, ensuring that lighting devices do not:

a. Obstruct the view of the vehicle operator.

b. Overburden the electrical system of the vehicle.

c. Interfere with the vision of the vehicle operator, passengers, or drivers of other vehicles.

133.2(4) Operators of authorized vehicles shall ensure that the authorization certificate is carried in the vehicle.

641—133.3(321) Application.

133.3(1) Authorization certificates shall be issued by the service director for service vehicles and vehicles owned by emergency medical care providers who are members in good standing with the service. Authorization certificates are available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems). Vehicle authorization shall be limited to:

a. Vehicles owned or exclusively operated by the ambulance or nontransport service.

b. Vehicles owned or operated by emergency medical care provider members of the ambulance or nontransport service.
c. Vehicles owned or operated by the service program’s medical director.

d. One authorization certificate per vehicle.

133.3(2) Nothing in these rules shall prevent the use of white flashing lights on vehicles which are authorized to use red or blue flashing lights.

133.3(3) The service director shall report the issuance of white light authorization certificates within 15 days to the department on forms approved by the department. Information required by the department shall include, but not be limited to:

a. Demonstrated necessity for authorization.

b. Vehicle liability insurance.

c. Current Iowa vehicle registration.

d. The member’s current driver’s license number, if the authorized vehicle is privately owned.

133.3(4) The service director shall provide, upon request of the department or its agents, proof of the information required in 133.3(3) for each authorization certificate issued.

133.3(5) The service director shall provide an informational sheet which explains the requirements for use of the white lights to each member who is issued an authorization certificate. The information sheet is available upon request from the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

133.3(6) The service director shall encourage members operating authorized vehicles to complete a course in emergency driving techniques and the laws and rules governing emergency vehicle operation.

133.3(7) The authorization shall expire five years from the date issued unless sooner suspended or revoked.

133.3(8) The department may issue authorization certificates for vehicles used by employees of the department when responding to emergencies or disasters.

[ARC 0901C, IAB 8/7/13, effective 9/11/13]

641—133.4(321) Approval, denial, probation, suspension and revocation of authorization.

133.4(1) The service director or the department may approve or deny an application and the department may place on probation, suspend or revoke an authorization certificate if the service director or the department finds reason to believe that the applicant or certificate holder:

a. Has failed to meet all applicable requirements of these rules.

b. Has been convicted of a moving violation while using flashing white lights.

c. Has utilized a white flashing light without obtaining an authorization certificate.

d. Does not have a valid driver’s license.

e. Does not have a current vehicle registration.

133.4(2) The authorization certificate shall be surrendered upon the request of the department or its agents.

133.4(3) An emergency medical care provider or service director who has knowledge of any emergency medical care provider or service program that has violated Iowa Code chapter 147A, Iowa Administrative Code 641—Chapter 132 or these rules shall, within 30 days, report that information to the department.

133.4(4) A denial, probation, suspension or revocation ordered by the department shall be effected, and may be appealed according to the provisions set forth in rule 641—133.5(321).

641—133.5(321) Appeal of denial, probation, or revocation of authorization.

133.5(1) Denial, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice of denial, probation, suspension or revocation shall be served to the alleged violator by restricted certified mail, return receipt requested, or by personal service.

133.5(2) Any request for appeal concerning denial, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 30 days of the receipt of the department’s notice. The address is: Iowa Department of Public
Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 30-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, probation, suspension or revocation has been or will be removed. If no request for appeal is received within the 30-day time period, the department’s notice of denial, probation, suspension or revocation shall become the department’s final agency action.

133.5(3) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

133.5(4) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 4, Iowa Administrative Code.

133.5(5) When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department’s final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 133.5(6).

133.5(6) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge’s proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

133.5(7) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:
   a. All pleadings, motions, and rules.
   b. All evidence received or considered and all other submissions by recording or transcript.
   c. A statement of all matters officially noticed.
   d. All questions and offers of proof, objections and rulings on them.
   e. All proposed findings and exceptions.
   f. The proposed decision and order of the administrative law judge.

133.5(8) The decision and order of the director becomes the department’s final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

133.5(9) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

133.5(10) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

133.5(11) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

These rules are intended to implement Iowa Code section 321.423.

[Filed 7/11/90, Notice 5/30/90—published 8/8/90, effective 9/12/90]
[Filed 11/18/91, Notice 10/2/91—published 12/11/91, effective 1/15/92]
[Filed 9/20/95, Notice 8/2/95—published 10/11/95, effective 11/15/95]
[Filed 1/13/05, Notice 11/24/04—published 2/2/05, effective 3/9/05]
[Filed ARC 0901C (Notice ARC 0775C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
OPTOMETRISTS

CHAPTER 180  LICENSURE OF OPTOMETRISTS
CHAPTER 181  CONTINUING EDUCATION FOR OPTOMETRISTS
CHAPTER 182  PRACTICE OF OPTOMETRISTS
CHAPTER 183  DISCIPLINE FOR OPTOMETRISTS

CHAPTER 180  LICENSURE OF OPTOMETRISTS
[Prior to 6/13/01, see 645—Chapter 180]

645—180.1(154) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Approved program or activity” means a continuing education program or activity meeting the standards set forth in these rules.

“Board” means the board of optometry.

“CELMO” means the Council on Endorsed Licensure Mobility for Optometrists.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as an optometrist in the state of Iowa.

“Licensure by endorsement” means the issuance of an Iowa license to practice optometry to an applicant who is or has been licensed in another state.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of optometrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“NBEO” means the National Board of Examiners in Optometry.

“Optometrist” means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry to employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of the conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding Iowa Code section 147.107, may without charge supply any of the above pharmaceuticals to commence a course of therapy, with the exclusions cited in Iowa Code chapter 154.

“Reactivate” or “reactivation” means the process as outlined in rule 180.11(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“TPA” means therapeutic pharmaceutical agents.

[ARC 0899C, IAB 8/7/13, effective 9/11/13]

645—180.2(154) Requirements for licensure.

180.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application form. Application forms may be obtained from the board’s Web site (http://www.idph.state.ia.us/licensure) or directly from the Board of Optometry, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.
b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. An applicant shall submit the appropriate fees payable to the Board of Optometry. The fees are nonrefundable.

d. No application will be considered complete until official copies of academic transcripts sent directly to the board from an accredited school or college of optometry are received by the board and the applicant submits proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

e. An applicant shall pass all parts of the NBEO examination in effect at the time of application.

f. Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

g. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

h. An applicant shall provide an official verification regarding the status of the applicant’s license from the board of examiners in each state in which the applicant is currently or was formerly licensed.

180.2(2) Rescinded IAB 8/7/13, effective 9/11/13.

[ARC 0899C, IAB 8/7/13, effective 9/11/13]

645—180.3(154) Licensure by endorsement. An applicant who has been a licensed optometrist under laws of another jurisdiction for three years or more shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

180.3(1) Submits to the board a completed application;

180.3(2) Pays the licensure fee;

180.3(3) Provides an official copy of the transcript sent directly from the school to the board office. The transcript shall show a doctor of optometry degree from an accredited school. In the case of foreign graduates, applicants shall provide evidence of adherence to the current requirements of the NBEO to sit for the NBEO examination;

180.3(4) Shows evidence of successful completion of the examination of the NBEO that was current at the time of initial licensure or successful completion of the examination that is currently offered by the NBEO;

180.3(5) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

a. Licensee’s name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license;

180.3(6) Provides a statement disclosing and explaining the applicant’s involvement in civil litigation related to the practice of optometry in any jurisdiction of the United States, other nations or territories; and

180.3(7) Provides proof of current CELMO certification. Applicants who provide proof of current CELMO certification satisfy the educational requirements for licensure by endorsement. If an applicant is not CELMO-certified, then the applicant must show evidence of the following:

a. The applicant shall supply evidence of completion of a course that has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa, provided by an institution accredited by a regional or professional accreditation organization that is recognized or
approved by the Council on Postsecondary Accreditation of the United States Department of Education; and

b. The applicant shall show evidence on the transcript of:
   (1) Forty hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa; and
   (2) An additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases.

c. If the transcript does not show evidence of 40 hours of didactic education; 60 hours of approved supervised clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa; and 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, the applicant shall show satisfactory evidence of completion of a course that includes training in the above-listed areas.

d. Any transcript that shows graduation from an approved school of optometry after January 2, 1988, meets the requirement of 180.3(7)“b.”

e. Any transcript that shows graduation from an approved school of optometry after January 2, 1986, meets the requirement of 180.3(7)“(b)”(1) of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. Applicants need to also show evidence of completion of the requirement in 180.3(7)“b”(2).

f. An applicant for licensure by endorsement shall provide proof of licensure and evidence of three years of active practice in another state, territory or district of the United States immediately preceding the date of application which has a similar scope of practice to that required in Iowa as determined by the board. When the scope of practice is different, the applicant shall make available to the board evidence of completion of additional hours of training related to the area of the deficiency as prescribed by the board. The applicant may be exempt from the requirement of three years of active practice if, during the above-mentioned three-year period, the applicant was:
   (1) Teaching optometry;
   (2) A military optometrist;
   (3) A supervisory or administrative optometrist; or
   (4) A researcher in optometry.

180.3(8) Applicants for licensure by endorsement who were issued their Iowa licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

[ARC 0899C, IAB 8/7/13, effective 9/11/13]

645—180.4(147) Licensure by reciprocal agreement. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.5(154) License renewal.

180.5(1) The biennial license renewal period for a license to practice optometry shall begin on July 1 of an even-numbered year and end on June 30 two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

180.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

180.5(3) A licensee seeking renewal shall:
   a. Meet the continuing education requirements of rule 645—181.2(154) and the mandatory reporting requirements of subrule 180.5(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
   b. Submit the completed renewal application and renewal fee before the license expiration date.

180.5(4) Mandatory reporter training requirements.
a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who, in the scope of professional practice or in the course of the licensee’s employment responsibilities, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “e,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

   (1) Is engaged in active duty in the military service of this state or the United States.

   (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 181.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

180.5(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

180.5(6) A person licensed to practice optometry shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

180.5(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.12(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

180.5(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an optometrist in Iowa until the license is reactivated. A licensee who practices as an optometrist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—180.6(272C) Exemptions for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—180.7(272C) Lapsed licenses. Rescinded IAB 8/3/05, effective 9/7/05.
645—180.8(147) Duplicate certificate or wallet card. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.9(147) Reissued certificate or wallet card. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.10(17A,147,272C) License denial. Rescinded IAB 11/5/08, effective 12/10/08.

645—180.11(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

180.11(1) Submit a reactivation application on a form provided by the board.

180.11(2) Pay the reactivation fee that is due as specified in rule 645—5.12(147,154).

180.11(3) Provide verification of current competence to practice as an optometrist by satisfying one of the following criteria:
   a. If the license has been on inactive status for five years or less, an applicant must provide the following:
      (1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:
         1. Licensee’s name;
         2. Date of initial licensure;
         3. Current licensure status; and
         4. Any disciplinary action taken against the license; and
      (2) Verification of completion of 50 hours of continuing education within two years of application for reactivation unless the applicant provides proof of current CELMO certification. Proof of current CELMO certification satisfies continuing education requirements for the purpose of reactivation.
   b. If the license has been on inactive status for more than five years, an applicant must provide the following:
      (1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:
         1. Licensee’s name;
         2. Date of initial licensure;
         3. Current licensure status; and
         4. Any disciplinary action taken against the license; and
      (2) Verification of completion of 100 hours of continuing education within two years of application for reactivation unless the applicant provides proof of current CELMO certification. If the applicant provides proof of current CELMO certification, the applicant must also verify completion of an additional 50 hours of continuing education within two years of application for reactivation.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—180.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 180.11(17A,147,272C) prior to practicing as an optometrist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

[Filed 5/25/01, Notice 4/4/01—published 6/13/01, effective 7/18/01]
[Filed 7/18/02, Notice 5/15/02—published 8/7/02, effective 9/11/02]
[Filed 1/15/03, Notice 11/13/02—published 2/5/03, effective 3/12/03]
[Filed 7/8/05, Notice 5/11/05—published 8/3/05, effective 9/7/05]
[Filed 1/13/06, Notice 10/26/05—published 2/1/06, effective 3/8/06]
[Filed 1/12/07, Notice 11/8/06—published 1/31/07, effective 3/7/07]
Two or more ARCs
CHAPTER 181
CONTINUING EDUCATION FOR OPTOMETRISTS

645—181.1(154) Definitions. For the purpose of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“Board” means the board of optometry.

“CELMO” means the Council on Endorsed Licensure Mobility for Optometrists.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Independent study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“License” means license to practice.

“Licensee” means any person licensed to practice as an optometrist in the state of Iowa.

645—181.2(154) Continuing education requirements.

181.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as an optometrist in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board.

181.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

181.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

181.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

181.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—181.3(154,272) Standards.

181.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to common subject matters which integrally relate to the practice of the profession;
c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
d. Fulfills stated program goals, objectives, or both; and
e. Provides proof of attendance to licensees in attendance including:
   (1) Date, location, course title, presenter(s);
   (2) Numbers of program contact hours; and
   (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

181.3(2) Specific criteria.
a. Continuing education hours of credit may be obtained by attending:
   (1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry, all state optometric associations, and the department of ophthalmology of the school of medicine of the University of Iowa;
   (2) Postgraduate study through an accredited school or college of optometry;
   (3) Meetings or seminars that are approved and certified for optometric continuing education by the Association of Regulatory Boards of Optometry’s Council on Optometric Practitioner Education Committee (COPE); or
   (4) Beginning with the July 1, 2006, biennium, therapeutic licensees who provide proof of current CELMO certification meet continuing education requirements for the biennium.
b. The maximum number of hours in each category in each biennium is as follows:
   (1) Ten hours of credit for local study group programs that meet the criteria.
   (2) Ten hours of credit for correspondence courses, which include written and electronically transmitted material and have a posttest. Certification of the continuing education requirements and of passing the test must be given by the institution providing the continuing education, and that institution must be accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education.
   (3) Six hours of credit for practice management courses.
   (4) Two hours of credit for dependent adult abuse and child abuse identification.
   (5) Twenty hours of credit for postgraduate study courses.
c. Required continuing education hours. Licensees shall provide proof of continuing education in the following areas:
   (1) Current certification in CPR offered in person by the American Heart Association, the American Red Cross or an equivalent organization. At least two hours per biennium is required but credit will be granted for four hours; and
   (2) Proof of current CELMO certification. If the licensee does not have current proof of CELMO certification, then the following is required:
      1. A combined total of 40 hours required from COPE Category B (Ocular Disease and Management) and COPE Category C (Related Systemic Disease) with a minimum of 14 hours in each category; and
      2. Ten additional hours required from any of the COPE Categories of A (Clinical Optometry), B, C and D (Optometric Business Management). Hours obtained in Category D may not exceed 6 hours of the total continuing education hours' requirement.

645—181.4(154,272C) Audit of continuing education report. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.5(154,272C) Automatic exemption. Rescinded IAB 11/5/08, effective 12/10/08.
645—181.6(154,272C) Continuing education exemption for disability or illness. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.7(154,272C) Grounds for disciplinary action. Rescinded IAB 11/5/08, effective 12/10/08.

645—181.8(154,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.9(154,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.10(154,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.11(272C) Hearings. Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154.

[Filed 5/12/00, Notice 4/5/00—published 5/31/00, effective 7/5/00]
[Filed 5/25/01, Notice 4/4/01—published 6/13/01, effective 7/18/01]
[Filed 7/18/02, Notice 5/15/02—published 8/7/02, effective 9/11/02]
[Filed 7/8/05, Notice 5/11/05—published 8/3/05, effective 9/7/05]
[Filed 1/13/06, Notice 10/26/05—published 2/1/06, effective 3/8/06]
[Filed 4/19/06, Notice 3/15/06—published 5/10/06, effective 6/14/06]
[Filed 1/12/07, Notice 11/8/06—published 1/31/07, effective 3/7/07]
[Filed 4/19/07, Notice 3/14/07—published 5/9/07, effective 6/13/07]
[Filed 10/14/08, Notice 8/27/08—published 11/5/08, effective 12/10/08]
[Filed ARC 0823B (Notice ARC 7762B, IAB 5/6/09), IAB 7/29/09, effective 9/2/09]
[Filed ARC 9641B (Notice ARC 9519B, IAB 5/18/11), IAB 7/27/11, effective 8/31/11]
[Filed ARC 0899C (Notice ARC 0680C, IAB 4/3/13), IAB 8/7/13, effective 9/11/13]

◊ Two or more ARCs
CHAPTER 182
PRACTICE OF OPTOMETRISTS

[Prior to 8/7/02, see 645—179.4(154), 179.5(154,272C), 179.7(154) and 179.8(155A)]

[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—182.2(154,272C) Record keeping. Optometrists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

182.2(1) Optometrists shall maintain optometry records for each patient. The records shall contain all of the following:
   a. Personal data.
      (1) Name, date of birth, address and, if a minor, name of parent or guardian; and
      (2) Name and telephone number of person to contact in case of emergency.
   b. Optometry and medical history. Optometry records shall include information from the patient or the patient’s parent or guardian regarding the patient’s optometric and medical history. The information shall include sufficient data to support the recommended treatment plan.
   c. Patient’s reason for visit. When a patient presents with a chief complaint, optometric records shall include the patient’s stated visual health care reasons for visiting the optometrist.
   d. Clinical examination progress notes. Optometric records shall include chronological dates and descriptions of the following:
      (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
      (2) Plan of intended treatment and treatment sequence;
      (3) Services rendered and any treatment complications;
      (4) All ancillary testing, if applicable;
      (5) Vision tests completed and visual acuity;
      (6) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
      (7) Name of optometrist who performs any treatment or service or who may have contact with a patient regarding the patient’s optometric health.
   e. Informed consent. Optometric records shall include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

182.2(2) Retention of records. An optometrist shall maintain a patient’s record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for, at minimum, one year after the patient reaches the age of majority (18) or five years after the date of last examination, prescription, or treatment, whichever is longer.
   Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

182.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, an optometrist shall keep either a duplicate hard-copy record or a back-up unalterable electronic record.

182.2(4) Correction of records. Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by an optometric health care worker.

182.2(5) Confidentiality and transfer of records. Optometrists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or the patient’s new optometrist, the optometrist shall furnish such optometry records or copies of the records as will be beneficial for the future treatment of that patient. The optometrist may include a summary of the record(s) with the record(s) or copy of the record(s). The optometrist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. The optometrist may ask for a written request for the record(s).
182.2(6) Retirement or discontinuance of practice. A licensee, upon retirement, or upon discontinuation of the practice of optometry, or upon leaving a practice or moving from a community, shall notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of optometry in the community, and shall encourage patients to seek the services of another licensee. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee. “Active patient” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of optometry, or leaving a practice or moving from a community.

182.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee’s patient records to another licensed optometrist who is assuming a practice, provided that written notice is furnished to all patients.

645—182.3(154) Furnishing prescriptions. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

182.3(1) A contact lens prescription shall contain the following information:
   a. Date of issuance;
   b. Name and address of patient for whom the contact lenses are prescribed;
   c. Name, address, and signature of the practitioner;
   d. All parameters required to duplicate properly the original contact lens;
   e. A specific date of expiration, not to exceed 18 months, the quantity of lenses allowed and the number of refills allowed; and
   f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

182.3(2) Release of contact lens prescription.
   a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner shall, upon request of the patient, provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.
   b. A practitioner choosing to issue an oral prescription shall furnish the same information required for the written prescription except for the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapter 148, 154 or 155A.
   c. The issuing of an oral prescription must be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

182.3(3) An ophthalmic spectacle lens prescription shall contain the following information:
   a. Date of issuance;
   b. Name and address of the patient for whom the ophthalmic lenses are prescribed;
   c. Name, address, and signature of the practitioner issuing the prescription;
   d. All parameters necessary to duplicate properly the ophthalmic lens prescription; and
   e. A specific date of expiration not to exceed two years.
   f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

182.3(4) Release of ophthalmic lens prescription.
   a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.
   b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.
c. Spectacle lens prescriptions must be in written format, according to Iowa Code section 147.109(1).
[ARC 9641B, IAB 7/27/11, effective 8/31/11]

645—182.4(155A) Prescription drug orders. Each prescription drug order furnished by an optometrist in this state shall meet the following requirements:

182.4(1) Written prescription drug orders shall contain:

a. The date of issuance;

b. The name and address of the patient for whom the drug is dispensed;

c. The name, strength, and quantity of the drug, medicine, or device prescribed;

d. The directions for use of the drug, medicine, or device prescribed;

e. The name, address, and written signature of the practitioner issuing the prescription; and

f. The federal drug enforcement administration number, if required under Iowa Code chapter 124.

182.4(2) The practitioner issuing oral prescription drug orders shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner.
[ARC 9641B, IAB 7/27/11, effective 8/31/11; ARC 0899C, IAB 8/7/13, effective 9/11/13]

These rules are intended to implement Iowa Code chapters 154 and 155A.
[Filed 7/18/02, Notice 5/15/02—published 8/7/02, effective 9/11/02]
[Filed ARC 9641B (Notice ARC 9519B, IAB 5/18/11), IAB 7/27/11, effective 8/31/11]
[Filed ARC 0899C (Notice ARC 0680C, IAB 4/3/13), IAB 8/7/13, effective 9/11/13]
645—220.1(149) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Board” means the board of podiatry.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as a podiatrist in the state of Iowa.

“License expiration date” means June 30 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice podiatry to an applicant who is or has been licensed in another state.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of podiatrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“NBPME” means National Board of Podiatric Medical Examiners.

“Reactivate” or “reactivation” means the process as outlined in rule 220.15(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice podiatry to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of podiatry to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—220.2(149) Requirements for licensure. The following criteria shall apply to licensure:

220.2(1) An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Podiatry, Bureau of Professional Licensure, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

220.2(2) An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

220.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Podiatry. The fees are nonrefundable.

220.2(4) No application will be considered complete until official copies of academic transcripts are received, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric
Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board.

**220.2(5)** Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

**220.2(6)** Incomplete applications that have been on file in the board office for more than two years shall be:
   
   a. Considered invalid and shall be destroyed; or
   
   b. Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

**220.2(7)** An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant’s credentials and the discretion of the board.

**220.2(8)** An applicant who graduated from a podiatric college on or after January 1, 1995, shall present documentation of successful completion of a residency approved by the American Podiatric Medical Association’s Council on Podiatric Medical Education.

**220.2(9)** Passing score reports for Part I, Part II, and Part III of the NBPME examination shall be sent directly from the examination service to the board.

[ARC 8082B, IAB 8/12/09, effective 9/16/09]

### 645—220.3(149) Written examinations.

**220.3(1)** The examinations required by the board shall be Part I, Part II, and Part III of the NBPME.

**220.3(2)** The applicant has responsibility for:

   a. Making arrangements to take the examinations; and
   
   b. Arranging to have the examination score reports sent directly to the board from the NBPME.

**220.3(3)** A passing score as recommended by the administrators of the NBPME examinations shall be required.

[ARC 8082B, IAB 8/12/09, effective 9/16/09]

### 645—220.4(149) Educational qualifications.

**220.4(1)** A new applicant for permanent or temporary licensure to practice as a podiatrist shall present official copies of academic transcripts, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board of podiatry.

**220.4(2)** Foreign-trained podiatrists shall:

   a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.
   
   b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a podiatry program in the country in which the applicant was educated.
   
   c. Receive a final determination from the board regarding the application for licensure.

[ARC 8082B, IAB 8/12/09, effective 9/16/09]

### 645—220.5(149) Title designations. A podiatrist may use the prefix “Doctor” but shall add after the person’s name the word “Podiatrist” or “DPM.”

### 645—220.6(147,149) Temporary license.

**220.6(1)** A temporary license may be issued for up to one year and may be annually renewed at the discretion of the board. Temporary licenses will expire on June 30.
220.6(2) Each applicant shall:
   a. Submit a completed application form according to the instructions contained in the application.
   If the application is not completed according to the instructions, the application will not be reviewed by
   the board;
   b. Submit the appropriate fees payable to the Board of Podiatry. The fees are nonrefundable;
   c. Have official copies of academic transcripts sent directly to the board of podiatry from a college
      of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American
      Podiatric Medical Association;
   d. Request that passing score reports of the NBPME examination Part I and Part II be sent directly
      to the board of podiatry from the National Board of Podiatric Medical Examiners;
   e. Furnish an affidavit by the institution director or dean of an approved podiatric college attesting
      that the applicant has been accepted into a residency program in this state. The residency program must
      be approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical
      Association;
   f. Request verification of license(s) from every jurisdiction in which the applicant has been
      licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be
      substituted for verification direct from the jurisdiction’s board office if the verification provides:
      (1) Licensee’s name;
      (2) Date of initial licensure;
      (3) Current licensure status; and
      (4) Any disciplinary action taken against the license.

220.6(3) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed
      in another state, and has practiced for the 24 months immediately prior to application may be exempted
      from passing Part I and Part II of the NBPME examination based on the applicant’s credentials and the
      discretion of the board.

220.6(4) The ultimate decision to issue a temporary license resides with the board, and a temporary
      license shall be surrendered if the reason for issuance ceases to exist.

[ARC 8028B, IAB 8/12/09, effective 9/16/09; ARC 0939C, IAB 8/7/13, effective 9/11/13]

645—220.7(149) Licensure by endorsement. An applicant who has been a licensed podiatrist under
the laws of another jurisdiction shall file an application for licensure by endorsement with the board office.

220.7(1) The board may receive by endorsement any applicant from the District of Columbia,
another state, territory, province or foreign country who:
   a. Submits to the board a completed application;
   b. Pays the licensure fee;
   c. Shows evidence of licensure requirements that are similar to those required in Iowa;
   d. Provides the board with official copies of academic transcripts, verifying graduation from a
      college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the
      American Podiatric Medical Association. Transcripts must be sent directly from the school to the board
      of podiatry; and
   e. Provides verification of license(s) from every jurisdiction in which the applicant has been
      licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be
      substituted for verification direct from the jurisdiction’s board office if the verification provides:
      (1) Licensee’s name;
      (2) Date of initial licensure;
      (3) Current licensure status; and
      (4) Any disciplinary action taken against the license.

220.7(2) An applicant shall submit the passing score reports for Part I and Part II of the NBPME
      examination. An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed
      in another state, and has practiced for the 24 months immediately prior to application may be exempted
      from passing Part I and Part II of the NBPME examination based on the applicant’s credentials and the
      discretion of the board.
220.7(3) An applicant shall submit passing score reports for Part III of the NBPME examination. An applicant who passed the Part III NBPME examination more than three years prior to the date of application in Iowa must submit proof of podiatry practice for one of the last three years.

220.7(4) An applicant who graduated from a podiatric college on or after January 1, 1995, must present documentation of successful completion of a residency approved by the American Podiatric Medical Association’s Council on Podiatric Medical Education.

[ARC 8028B, IAB 8/12/09, effective 9/16/09]

645—220.8(147) Licensure by reciprocal agreement. Rescinded IAB 11/5/08, effective 12/10/08.

645—220.9(149) License renewal.

220.9(1) The biennial license renewal period for a license to practice podiatry shall begin on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

220.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

220.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—222.2(149,272C) and the mandatory reporting requirements of subrule 220.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

220.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.
The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

220.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

220.9(6) A person licensed to practice podiatry shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

220.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.15(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

220.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a podiatrist in Iowa until the license is reactivated. A licensee who practices as a podiatrist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9509B, IAB 5/18/11, effective 6/22/11]

645—220.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—220.11(272C) Lapsed licenses. Rescinded IAB 8/3/05, effective 9/7/05.

645—220.12(147) Duplicate certificate or wallet card. Rescinded IAB 11/5/08, effective 12/10/08.

645—220.13(147) Reissued certificate or wallet card. Rescinded IAB 11/5/08, effective 12/10/08.

645—220.14(17A,147,272C) License denial. Rescinded IAB 11/5/08, effective 12/10/08.

645—220.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

220.15(1) Submit a reactivation application on a form provided by the board.

220.15(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

220.15(3) Provide verification of current competence to practice as a podiatrist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

   (1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

   1. Licensee’s name;
   2. Date of initial licensure;
   3. Current licensure status; and
   4. Any disciplinary action taken against the license; and

   (2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

   (1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly
from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—220.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 220.15(17A,147,272C) prior to practicing as a podiatrist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 149, and 272C.

[Filed prior to July 1, 1952]
[Filed 4/29/77, Notice 3/23/77—published 5/18/77, effective 6/22/77]
[Filed 5/12/78, Notice 11/16/77—published 5/31/78, effective 7/5/78]
[Filed 1/18/79, Notice 10/18/78—published 2/7/79, effective 4/1/79]
[Filed 3/18/82, Notice 1/20/82—published 4/14/82, effective 5/19/82]
[Filed 7/29/82, Notice 6/23/82—published 8/18/82, effective 9/22/82]
[Filed 11/30/83, Notice 9/14/83—published 12/21/83, effective 1/26/84]
[Filed emergency 5/18/84—published 6/6/84, effective 5/18/84]
[Filed 8/10/84, Notice 6/6/84—published 8/29/84, effective 10/3/84]
[Filed 11/15/84, Notice 8/29/84—published 12/5/84, effective 1/9/85]
[Filed 6/23/89, Notice 4/19/89—published 7/12/89, effective 8/16/89]
[Filed 9/29/89, Notice 5/31/89—published 10/18/89, effective 11/22/89]
[Filed 6/22/90, Notice 4/4/90—published 7/11/90, effective 8/15/90]
[Filed 11/22/92, Notice 8/7/91—published 12/11/91, effective 1/15/92]
[Filed 3/13/92, Notice 12/25/91—published 4/1/92, effective 5/6/92]
[Filed 11/20/92, Notice 9/30/92—published 12/9/92, effective 1/13/93]
[Filed 4/23/93, Notice 12/9/92—published 5/12/93, effective 6/16/93]
[Filed 12/15/94, Notice 8/17/94—published 1/4/95, effective 2/8/95]
[Filed 4/19/95, Notice 2/15/95—published 5/10/95, effective 6/14/95]
[Filed 7/14/95, Notice 5/10/95—published 8/2/95, effective 9/6/95]
[Filed 2/1/01, Notice 11/1/00—published 2/21/01, effective 3/28/01]
[Filed 1/17/02, Notice 10/31/01—published 2/6/02, effective 3/13/02]
[Filed 1/15/03, Notice 10/30/02—published 2/5/03, effective 3/12/03]
[Filed 4/22/04, Notice 3/17/04—published 5/12/04, effective 6/16/04]
[Filed 7/12/05, Notice 5/11/05—published 8/3/05, effective 9/7/05]
[Filed 1/13/06, Notice 10/26/05—published 2/1/06, effective 3/8/06]
[Filed 10/17/08, Notice 8/13/08—published 11/5/08, effective 12/10/08]
[Filed ARC 8028B (Notice ARC 7779B, IAB 5/20/09), IAB 8/12/09, effective 9/16/09]
[Filed ARC 9509B (Notice ARC 9401B, IAB 3/9/11), IAB 5/18/11, effective 6/22/11]
[Filed ARC 0939C (Notice ARC 0555C, IAB 1/9/13), IAB 8/7/13, effective 9/11/13]
CHAPTER 10
CONTROLLED SUBSTANCES
[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 8]

657—10.1(124) Who shall register. Any person or business located in Iowa that manufactures, distributes, dispenses, prescribes, imports or exports, conducts research or instructional activities, or conducts chemical analysis with controlled substances in the state of Iowa, or that proposes to engage in such activities with controlled substances in the state, shall obtain and maintain a registration issued by the board unless exempt from registration pursuant to rule 657—10.6(124). A person or business required to be registered shall not engage in any activity for which registration is required until the application for registration is granted and the board has issued a certificate of registration to such person or business.

Manufacturers, distributors, reverse distributors, importers and exporters, individual practitioners (M.D., D.O., D.D.S., D.V.M., D.P.M., O.D., P.A., resident physician, advanced registered nurse practitioner), pharmacies, hospitals and animal shelters, care facilities, researchers and dog trainers, analytical laboratories, and teaching institutions shall register on forms provided by the board office. To be eligible to register, individual practitioners must hold a current, active license in good standing, issued by the appropriate Iowa professional licensing board, to practice their profession in Iowa.

657—10.2(124) Application forms. Application forms may be obtained from the Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. Forms are also available on the board’s Web site, www.state.ia.us/ibpe. Registration renewal forms will be mailed to each registrant approximately 60 days before the expiration date of the registration. A registrant who has not received a renewal form 45 days before the expiration date of the registration is responsible for contacting the board to request an application.

10.2(1) Signature requirements. Each application, attachment, or other document filed as part of an application shall be signed by the applicant as follows:

a. If the applicant is an individual practitioner, the practitioner shall sign the application and supporting documents.

b. If the applicant is a business, the application and supporting documents shall be signed by the person ultimately responsible for the security and maintenance of controlled substances at the registered location.

10.2(2) Submission of multiple applications. Any person or business required to obtain more than one registration may submit all applications in one package. Each application shall be complete and shall not refer to any accompanying application or any attachment to an accompanying application for required information.

657—10.3(124) Registration and renewal. For each registration or timely renewal of a registration to manufacture, distribute, dispense, prescribe, import or export, conduct research or instructional activities, or conduct chemical analysis with controlled substances listed in Schedules I through V of Iowa Code chapter 124, registrants shall pay a biennial fee of $90.

10.3(1) Time and method of payment. Registration and renewal fees shall be paid at the time the application for registration or renewal is submitted. Payment should be made in the form of a personal, certified, or cashier’s check or a money order made payable to the Iowa Board of Pharmacy. Payments made in the form of foreign currency or third-party endorsed checks will not be accepted.

10.3(2) Late renewal. Any registered person or business may apply, on forms provided by the board office, for registration renewal not more than 60 days prior to the expiration of the registration. Failure to renew a registration prior to the first day of the month following expiration shall require payment of the renewal fee and a penalty fee of $90. Payment shall be made as specified in subrule 10.3(1).

[ARC 0504C, IAB 12/12/12, effective 1/16/13]

657—10.4(124) Exemptions—registration fee. The registration fee is waived for federal, state, and local law enforcement agencies and for the following federal and state institutions: hospitals, health care
or teaching institutions, and analytical laboratories authorized to possess, manufacture, distribute, and dispense controlled substances in the course of official duties.

10.4(1) Law enforcement officials. In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use as standards in chemical analysis, such laboratories shall maintain a registration to conduct chemical analysis. Such laboratories shall be exempt from payment of a fee for registration.

10.4(2) Registration and duties not exempt. Exemption from payment of a registration or registration renewal fee as provided in this rule does not relieve the agency or institution of registration or of any other requirements or duties prescribed by law.

657—10.5(124) Separate registration for independent activities; coincident activities. The following activities are deemed to be independent of each other and shall require separate registration. Any person or business engaged in more than one of these activities shall be required to separately register for each independent activity, provided, however, that registration in an independent activity shall authorize the registrant to engage in activities identified coincident with that independent activity.

10.5(1) Manufacturing controlled substances. A person or business registered to manufacture controlled substances in Schedules I through V may distribute any substances for which registration to manufacture was issued. A person or business registered to manufacture controlled substances in Schedules II through V may conduct chemical analysis and preclinical research, including quality control analysis, with any substances listed in those schedules for which the person or business is registered to manufacture.

10.5(2) Distributing controlled substances. This independent activity includes the delivery, other than by administering or dispensing, of controlled substances listed in Schedules I through V. No coincident activities are authorized.

10.5(3) Dispensing or instructing with controlled substances. This independent activity includes, but is not limited to, prescribing by individual practitioners, dispensing by pharmacies and hospitals, and conducting instructional activities with controlled substances listed in Schedules II through V. A person or business registered for this independent activity may conduct research and instructional activities with those substances for which the person or business is registered to the extent authorized under state law.

10.5(4) Conducting research with controlled substances listed in Schedule I. A researcher may manufacture or import the substances for which registration was issued provided that such manufacture or import is permitted under the federal Drug Enforcement Administration (DEA) registration. A researcher may distribute the substances for which registration was issued to persons or businesses registered or authorized to conduct research with that class of substances or registered or authorized to conduct chemical analysis with controlled substances.

10.5(5) Conducting research with controlled substances listed in Schedules II through V. A researcher may conduct chemical analysis with controlled substances in those schedules for which registration was issued, may manufacture such substances if and to the extent such manufacture is permitted under the federal DEA registration, and may import such substances for research purposes. A researcher may distribute controlled substances in those schedules for which registration was issued to persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances, and to persons exempt from registration pursuant to Iowa Code subsection 124.302(3), and may conduct instructional activities with controlled substances.

10.5(6) Conducting chemical analysis with controlled substances. A person or business registered to conduct chemical analysis with controlled substances listed in Schedules I through V may manufacture and import controlled substances for analytical or instructional activities; may distribute such substances to persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances and to persons exempt from registration pursuant to Iowa Code subsection 124.302(3); may export such substances to persons in other countries performing chemical analysis or enforcing laws relating to controlled substances or drugs in those countries; and may conduct instructional activities with controlled substances.
10.5(7) Importing or exporting controlled substances. A person or business registered to import controlled substances listed in Schedules I through V may distribute any substances for which such registration was issued.

657—10.6(124) Separate registrations for separate locations; exemption from registration. A separate registration is required for each principal place of business or professional practice location where controlled substances are manufactured, distributed, imported, exported, or dispensed unless the person or business is exempt from registration pursuant to Iowa Code subsection 124.302(3) or this rule.

10.6(1) Warehouse. A warehouse where controlled substances are stored by or on behalf of a registered person or business shall be exempt from registration except as follows:

a. Registration of the warehouse shall be required if such controlled substances are distributed directly from that warehouse to registered locations other than the registered location from which the substances were delivered to the warehouse.

b. Registration of the warehouse shall be required if such controlled substances are distributed directly from that warehouse to persons exempt from registration pursuant to Iowa Code subsection 124.302(3).

10.6(2) Sales office. An office used by agents of a registrant where sales of controlled substances are solicited, made, or supervised shall be exempt from registration. Such office shall not contain controlled substances, except substances used for display purposes or for lawful distribution as samples, and shall not serve as a distribution point for filling sales orders.

10.6(3) Prescriber’s office. An office used by a prescriber who is registered at another location and where controlled substances are prescribed but where no supplies of controlled substances are maintained shall be exempt from registration. However, a prescriber who practices at more than one office location where controlled substances are administered or otherwise dispensed as a regular part of the prescriber’s practice shall register at each location wherein the prescriber maintains supplies of controlled substances.

10.6(4) Prescriber in hospital. A prescriber who is registered at another location and who treats patients and may order the administration of controlled substances in a hospital other than the prescriber’s registered practice location shall not be required to obtain a separate registration for the hospital.

10.6(5) Affiliated interns, residents, or foreign physicians. An individual practitioner who is an intern, resident, or foreign physician may dispense and prescribe controlled substances under the registration of the hospital or other institution which is registered and by whom the registrant is employed provided that:

a. The hospital or other institution by which the individual practitioner is employed has determined that the practitioner is permitted to dispense or prescribe drugs by the appropriate licensing board;

b. Such individual practitioner is acting only in the scope of employment in the hospital or institution;

c. The hospital or other institution authorizes the intern, resident, or foreign physician to dispense or prescribe under the hospital registration and designates a specific internal code number, letters, or combination thereof which shall be appended to the institution’s DEA registration number, preceded by a hyphen (e.g., AP1234567-10 or AP1234567-12); and

d. The hospital or institution maintains a current list of internal code numbers identifying the corresponding individual practitioner, available for the purpose of verifying the authority of the prescribing individual practitioner.

657—10.7 to 10.9 Reserved.

657—10.10(124,147,155A) Inspection. The board may inspect, or cause to be inspected, the establishment of an applicant or registrant. The board shall review the application for registration and other information regarding an applicant or registrant in order to determine whether the applicant or registrant has met the applicable standards of Iowa Code chapter 124 and these rules.
657—10.11(124) Modification or termination of registration. A registered individual or business may apply to modify a current registration as provided by this rule.

10.11(1) Change of substances authorized. Any registrant may apply to modify the substances authorized by the registration by submitting a written request to the board. The request shall include the registrant’s name, address, telephone number, registration number, and the substances or schedules to be added to or removed from the registration and shall be signed by the same person who signed the most recent application for registration or registration renewal. No fee shall be required for the modification.

10.11(2) Change of address of registered location.

a. Individual practitioner, researcher, analytical laboratory, or teaching institution. An entity registered under these classifications may apply to change the address of the registered location by submitting a written request to the board. The request shall include the registrant’s name, current address, new address, telephone number, effective date of the address change, and registration number, and shall be signed by the registered individual practitioner or the same person who signed the most recent application for registration or registration renewal. No fee shall be required for the modification.

b. Pharmacy, hospital, care facility, manufacturer, distributor, importer, or exporter. An entity registered under these classifications shall apply to change the address of the registered location by submitting a completed application for registration. Applications may be obtained and shall be submitted as provided in rule 657—10.2(124). The registration fee as provided in rule 657—10.3(124) shall accompany each completed application.

10.11(3) Change of registrant’s name.

a. Individual practitioner, researcher, analytical laboratory, or teaching institution. An entity registered under these classifications may apply to change the registrant’s name by submitting a written request to the board. The request shall include the registrant’s current name, the new name, address, telephone number, effective date of the name change, and registration number, and shall be signed by the registered individual practitioner or the same person who signed the most recent application for registration or registration renewal. No fee shall be required for the modification. Change of name, as used in this paragraph, refers to a change of the legal name of the registrant and does not authorize the transfer of a registration issued to an individual practitioner or researcher to another individual practitioner or researcher.

b. Pharmacy, hospital, care facility, manufacturer, distributor, importer, or exporter. An entity registered under these classifications shall apply to change the registrant name by submitting a completed application for registration. Applications may be obtained and shall be submitted as provided in rule 657—10.2(124). The registration fee as provided in rule 657—10.3(124) shall accompany each completed application.

10.11(4) Change of ownership of registered business entity. A change of immediate ownership of a pharmacy, hospital, care facility, manufacturer, distributor, analytical laboratory, teaching institution, importer, or exporter shall require the completion of an application for registration. Applications may be obtained and shall be submitted as provided in rule 657—10.2(124). The registration fee as provided in rule 10.3(124) shall accompany each completed application.

10.11(5) Change of responsible individual. Any registrant, except an individual practitioner, a researcher, a hospital, or a pharmacy, may apply to change the responsible individual authorized by the registration by submitting a written request to the board. The request shall include the registrant’s name, address, telephone number, the name and title of the current responsible individual and of the new responsible individual, the effective date of the change, and the registration number, and shall be signed by the new responsible individual. No fee shall be required for the modification.

a. Individual practitioners and researchers. Responsibility under a registration issued to an individual practitioner or researcher shall remain with the named individual practitioner or researcher. The responsible individual under such registration may not be changed.

b. Pharmacies and hospitals. The responsible pharmacist may execute a power of attorney for DEA order forms to change responsibility under the registration issued to the pharmacy or hospital. The power of attorney shall include the name, address, DEA registration number, and Iowa uniform controlled substances Act (CSA) registration number of the registrant. The power of attorney shall
identify the current and new responsible individuals and shall authorize the new responsible individual to execute applications and official DEA order forms to requisition Schedule II controlled substances. The power of attorney shall be signed by both individuals, shall be witnessed by two adults, and shall be maintained by the registrant and available for inspection or copying by representatives of the board or other state or federal authorities.

10.11(6) Termination of registration. A registration issued to an individual shall terminate upon the death of the individual. A registration issued to an individual or business shall terminate when the registered individual or business ceases legal existence, discontinues business, or discontinues professional practice.

657—10.12(124) Denial, modification, suspension, or revocation of registration.

10.12(1) Grounds for suspension or revocation. The board may suspend or revoke any registration upon a finding that the registrant:

a. Has furnished false or fraudulent material information in any application filed under this chapter;

b. Has had the registrant’s federal registration to manufacture, distribute, or dispense controlled substances suspended or revoked;

c. Has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this rule only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant’s appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though entry of the judgment or sentence has been withheld and the individual has been placed on probation;

d. Has committed such acts as would render the registrant’s registration under Iowa Code section 124.303 inconsistent with the public interest as determined by that section; or

e. Has been subject to discipline by the registrant’s respective professional licensing board and the discipline revokes, suspends, or modifies the registrant’s authority regarding controlled substances (including, but not limited to, limiting or prohibiting the registrant from prescribing or handling controlled substances). A certified copy of the record of licensee discipline or a copy of the licensee’s surrender of the professional license shall be conclusive evidence.

10.12(2) Limited suspension or revocation. If the board finds grounds to suspend or revoke a registration, the board may limit revocation or suspension of the registration to the particular controlled substance with respect to which the grounds for revocation or suspension exist. If the revocation or suspension is limited to a particular controlled substance or substances, the registrant shall be given a new certificate of registration for all substances not affected by revocation or suspension; no fee shall be required for the new certificate of registration. The registrant shall deliver the old certificate of registration to the board.

10.12(3) Denial of registration or registration renewal. If upon examination of an application for registration or registration renewal, including any other information the board has or receives regarding the applicant, the board determines that the issuance of the registration would be inconsistent with the public interest, the board shall serve upon the applicant an order to show cause why the registration should not be denied.

10.12(4) Considerations in denial of registration. In determining the public interest, the board shall consider all of the following factors:

a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

b. Compliance with applicable state and local law.

c. Any convictions of the applicant under any federal and state laws relating to any controlled substance.

d. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant’s establishment of effective controls against diversion.

e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter.
Suspension or revocation of the applicant’s federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law.

g. Any other factors relevant to and consistent with the public health and safety.

10.12(5) Order to show cause. Before denying, modifying, suspending, or revoking a registration, the board shall serve upon the applicant or registrant an order to show cause why the registration should not be denied, modified, revoked, or suspended. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before an administrative law judge or the board at a time and place not less than 30 days after the date of service of the order. The order to show cause shall also contain a statement of the legal basis for such hearing and for the denial, revocation, or suspension of registration and a summary of the matters of fact and law asserted. If the order to show cause involves the possible denial of registration renewal, the order shall be served not later than 30 days before the expiration of the registration. Proceedings to refuse renewal of registration shall not abate the existing registration, which shall remain in effect pending the outcome of the administrative hearing unless the board issues an order of immediate suspension pursuant to subrule 10.12(9).

10.12(6) Hearing requested. If an applicant or registrant who has received an order to show cause desires a hearing on the matter, the applicant or registrant shall file a request for a hearing within 30 days after the date of service of the order to show cause. If a hearing is requested, the board shall hold a hearing pursuant to 657—Chapter 35 at the time and place stated in the order and without regard to any criminal prosecution or other proceeding. Unless otherwise ordered by the board, an administrative law judge employed by the department of inspections and appeals shall be assigned to preside over the case and to render a proposed decision for the board’s consideration.

10.12(7) Waiver of hearing. If an applicant or registrant entitled to a hearing on an order to show cause fails to file a request for hearing, or if the applicant or registrant requests a hearing but fails to appear at the hearing, the applicant or registrant shall be deemed to have waived the opportunity for a hearing unless the applicant or registrant shows good cause for such failure.

10.12(8) Final board order when hearing waived. If an applicant or registrant entitled to a hearing waives or is deemed to have waived the opportunity for a hearing, the executive director of the board may cancel the hearing and issue, on behalf of the board, the board’s final order on the order to show cause.

10.12(9) Order of immediate suspension. The board may suspend any registration simultaneously with the service upon the registrant of an order to show cause why such registration should not be revoked or suspended if it finds there is an imminent danger to the public health or safety that warrants such action. If the board suspends a registration simultaneously with the service of the order to show cause upon the registrant, it shall serve an order of immediate suspension containing a statement of its findings regarding the danger to public health or safety upon the registrant with the order to show cause. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, under the provisions of the Iowa administrative procedure Act, unless sooner withdrawn by the board or dissolved by the order of the district court or an appellate court.

10.12(10) Disposition of controlled substances. If the board suspends or revokes a registration, the registrant shall promptly return the certificate of registration to the board. Also, upon service of the order of the board suspending or revoking the registration, the registrant shall deliver all affected controlled substances in the registrant’s possession to the board or authorized agent of the board. Upon receiving the affected controlled substances from the registrant, the board or its authorized agent shall place all such substances under seal and retain the sealed controlled substances pending final resolution of any appeals or until a court of competent jurisdiction directs otherwise. No disposition may be made of the substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of proceeds of the sale with the court. Upon a revocation order’s becoming final, all such controlled substances may be forfeited to the state.

10.12(11) Notifications. The board shall promptly notify the DEA and the Iowa department of public safety of all orders suspending or revoking registration and all forfeitures of controlled substances.
Reserved.

**657—10.15(124,155A) Security requirements.** All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a person has provided effective controls against diversion, the board shall use the security requirements set forth in these rules as standards for the physical security controls and operating procedures necessary to prevent diversion.

10.15(1) Physical security. Physical security controls shall be commensurate with the schedules and quantity of controlled substances in the possession of the registrant in normal business operation. A registrant shall periodically review and adjust security measures based on rescheduling of substances or changes in the quantity of substances in the possession of the registrant.

a. Controlled substances listed in Schedule I shall be stored in a securely locked, substantially constructed cabinet.

b. Controlled substances listed in Schedules II through V may be stored in a securely locked, substantially constructed cabinet. However, pharmacies and hospitals may disperse these substances throughout the stock of noncontrolled substances in a manner so as to obstruct the theft or diversion of the controlled substances.

10.15(2) Factors in evaluating physical security systems. In evaluating the overall security system of a registrant or applicant necessary to maintain effective controls against theft or diversion of controlled substances, the board may consider any of the following factors it deems relevant to the need for strict compliance with the requirements of this rule:

a. The type of activity conducted;

b. The type, form, and quantity of controlled substances handled;

c. The location of the premises and the relationship such location bears to security needs;

d. The type of building construction comprising the facility and the general characteristics of the building or buildings;

e. The type of vault, safe, and secure enclosures available;

f. The type of closures on vaults, safes, and secure enclosures;

g. The adequacy of key control systems or combination lock control systems;

h. The adequacy of electric detection and alarm systems, if any;

i. The adequacy of supervision over employees having access to controlled substances, to storage areas, or to manufacturing areas;

j. The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;

k. The procedures for handling business guests, visitors, maintenance personnel, and nonemployee service personnel;

l. The availability of local police protection or of the registrant’s or applicant’s security personnel; and

m. The adequacy of the registrant’s or applicant’s system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances.

10.15(3) Manufacturing and compounding storage areas. Raw materials, bulk materials awaiting further processing, and finished products which are controlled substances listed in any schedule shall be stored pursuant to federal laws and regulations.

**657—10.16(124) Report of theft or loss.** A registrant shall report in writing, on forms provided by the board, any theft or significant loss of any controlled substance when the loss is attributable to other than inadvertent error. The report shall be submitted to the board office within two weeks of the discovery of the theft or loss. Thefts shall be reported whether or not the controlled substances are subsequently recovered or the responsible parties are identified and action is taken against them. A copy of the report shall be maintained in the files of the registrant, and the board will provide a copy of the report to the DEA. In addition to this required report, DEA requires the registrant to deliver notice, immediately
upon discovery of a theft or significant loss of controlled substances, to the nearest DEA field office via telephone, facsimile, or a brief written message explaining the circumstances.

657—10.17(124) Accountability of stock supply. An individual who administers a controlled substance from a non-patient-specific, stock supply in an institutional setting shall personally document on a separate readily retrievable record system each dose administered, wasted, or returned to the pharmacy. Such documentation shall not be delegated to another individual. Wastage documentation shall include the signature or unique electronic signature or identification of a witnessing licensed health care practitioner.

Distribution records for non-patient-specific, floor-stocked controlled substances shall bear the following information:
1. Patient’s name;
2. Prescriber who ordered drug;
3. Name of drug, dosage form, and strength;
4. Time and date of administration to patient and quantity administered;
5. Signature or unique electronic signature of individual administering controlled substance;
6. Returns to the pharmacy;
7. Waste, which is required to be witnessed and cosigned by another licensed health care practitioner.

[ARC 9912B, IAB 12/14/11, effective 1/18/12]

657—10.18(124) Disposal. Any persons legally authorized to possess controlled substances in the course of their professional practice or the conduct of their business shall dispose of such drugs pursuant to the procedures and requirements of this rule. Disposal records shall be maintained in the files of the registrant.

10.18(1) Registrant stock supply. Pharmacy personnel, registrants, and registrant staff shall remove from current inventory and dispose of controlled substances by one of the following procedures.
   a. The responsible individual shall utilize the services of a DEA-registered and Iowa-licensed disposal firm.
   b. The board may authorize and instruct the registrant to dispose of the controlled substances in one of the following manners:
      (1) By delivery to an agent of the board or to the board office;
      (2) By destruction of the drugs in the presence of a board officer, agent, inspector, or other authorized individual; or
      (3) By such other means as the board may determine to ensure that drugs do not become available to unauthorized persons.

10.18(2) Waste. Except as otherwise specifically provided by federal or state law or rules of the board, the unused portion of a controlled substance resulting from administration to a patient from a registrant’s stock or emergency supply or resulting from drug compounding operations may be destroyed or otherwise disposed of by the registrant or a pharmacist in witness of one other licensed health care provider or a registered pharmacy technician 18 years of age or older pursuant to this subrule. A written record of the wastage shall be made and maintained by the registrant for a minimum of two years following the destruction or other disposal. The record shall include the signatures of the individual destroying or otherwise disposing of the waste controlled substance and of the witnessing licensed health care provider or registered pharmacy technician and shall identify the following:
   a. The controlled substance wasted;
   b. The date of destruction or other disposition;
   c. The quantity or estimated quantity of the wasted controlled substance;
   d. The source of the controlled substance, including identification of the patient to whom the substance was administered or the drug compounding process utilizing the controlled substance; and
   e. The reason for the waste.
10.18(3) Previously dispensed controlled substances. Controlled substances dispensed to or for a patient and subsequently requiring destruction due to discontinuance of the drug, death of the patient, or other reasons necessitating destruction may be destroyed or otherwise disposed of by a pharmacist in witness of one other responsible adult pursuant to this subrule. All licenses and registrations issued to the pharmacy, the pharmacist, and any individual witnessing the destruction or other disposition shall not be subject to sanctions relating to controlled substances at the time of the destruction or disposition. The individuals involved in the destruction or other disposition shall not have been subject to any criminal, civil, or administrative action relating to violations of controlled substances laws, rules, or regulations within the past five years. The pharmacist in charge shall be responsible for designating pharmacists authorized to participate in the destruction or other disposition pursuant to this subrule. The authorized pharmacist shall prepare and maintain in the pharmacy a readily retrievable record of the destruction or other disposition, which shall be clearly marked to indicate the destruction or other disposition of noninventory or patient drugs. The record shall include, at a minimum, the following:

a. The source of the controlled substance (patient identifier or administering practitioner, if applicable, prescription number or other unique identification number, and date of return);

b. The name, strength, and dosage form of the substance;

c. The quantity returned and destroyed or otherwise disposed of;

d. The date the substance is destroyed or otherwise disposed of;

e. The signatures or other unique identification of the pharmacist and the witness;

f. The name and address of the dispensing pharmacy or practitioner if the controlled substance was not dispensed by the pharmacy completing the destruction.

[ARC 0749C, IAB 5/29/13, effective 7/3/13]

657—10.19 and 10.20 Reserved.

657—10.21(124,126,155A) Prescription requirements. All prescriptions for controlled substances shall be dated as of, and signed on, the day issued. Controlled substances prescriptions shall be valid for six months following date of issue. A prescription for a Schedule III, IV, or V controlled substance may include authorization to refill the prescription no more than five times within the six months following date of issue. A prescription for a Schedule II controlled substance shall not be refilled.

10.21(1) Form of prescription. All prescriptions shall bear the full name and address of the patient; the drug name, strength, dosage form, quantity prescribed, and directions for use; and the name, address, and DEA registration number of the prescriber. All prescriptions issued by individual prescribers shall include the legibly preprinted, typed, or hand-printed name of the prescriber as well as the prescriber’s written or electronic signature. When an oral order is not permitted, or when a prescriber is unable to prepare and transmit an electronic prescription in compliance with DEA requirements for electronic prescriptions, prescriptions shall be written with ink, indelible pencil, or typed print and shall be manually signed by the prescriber. If the prescriber utilizes an electronic prescription application that meets DEA requirements for electronic prescriptions, the prescriber may electronically prepare and transmit a prescription for a controlled substance to a pharmacy that utilizes a pharmacy prescription application that meets DEA requirements for electronic prescriptions. A prescriber’s agent may prepare a prescription for the review, authorization, and manual or electronic signature of the prescriber but the prescribing practitioner is responsible for the accuracy, completeness, and validity of the prescription. An electronic prescription for a controlled substance shall not be transmitted to a pharmacy except by the prescriber in compliance with DEA regulations. A prescriber shall securely maintain the unique authentication credentials issued to the prescriber for utilization of the electronic prescription application and authentication of the prescriber’s electronic signature. Unique authentication credentials issued to any individual shall not be shared with or disclosed to any other prescriber, agent, or individual. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this rule.

10.21(2) Verification by pharmacist. The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber’s agent in each case when a written or oral prescription
for a Schedule II controlled substance is presented for filling and neither the prescribing individual practitioner issuing the prescription nor the patient or patient’s agent is known to the pharmacist. The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber’s agent in any case when the pharmacist questions the validity of, including the legitimate medical purpose for, the prescription. The pharmacist is required to record the manner by which the prescription was verified and include the pharmacist’s name or unique identifier.

10.21(3) Intern, resident, foreign physician. An intern, resident, or foreign physician exempt from registration pursuant to subrule 10.6(5) shall include on all prescriptions issued the hospital’s registration number and the special internal code number assigned by the hospital in lieu of the prescriber’s registration number required by this rule. Each prescription shall include the stamped or legibly printed name of the intern, resident, or foreign physician as well as the prescriber’s signature.

10.21(4) Valid prescriber/patient relationship. Once the prescriber/patient relationship is broken and the prescriber is no longer available to treat the patient or to oversee the patient’s use of the controlled substance, a prescription shall lose its validity. A prescriber/patient relationship shall be deemed broken when the prescriber dies, retires, or moves out of the local service area or when the prescriber’s authority to prescribe is suspended, revoked, or otherwise modified to exclude authority for the schedule in which the prescribed substance is listed. The pharmacist, upon becoming aware of the situation, shall cancel the prescription and any remaining refills. However, the pharmacist shall exercise prudent judgment based upon individual circumstances to ensure that the patient is able to obtain a sufficient amount of the drug to continue treatment until the patient can reasonably obtain the service of another prescriber and a new prescription can be issued.

10.21(5) Schedule II prescriptions. With appropriate verification, a pharmacist may add information provided by the patient or patient’s agent, such as the patient’s address, to a Schedule II controlled substance prescription. A pharmacist shall never change the patient’s name, the controlled substance prescribed except for generic substitution, or the name or signature of the prescriber. After consultation with the prescriber or the prescriber’s agent and documentation of such consultation, a pharmacist may change or add the following information on a Schedule II controlled substance prescription:
   a. The drug strength;
   b. The dosage form;
   c. The drug quantity;
   d. The directions for use;
   e. The date the prescription was issued; and
   f. The prescriber’s address or DEA registration number.

[ARC 9912B, IAB 12/14/11, effective 1/18/12]

657—10.22(124) Schedule II emergency prescriptions.

10.22(1) Emergency situation defined. For the purposes of authorizing an oral or facsimile transmission of a prescription for a Schedule II controlled substance listed in Iowa Code section 124.206, the term “emergency situation” means those situations in which the prescribing practitioner determines that all of the following apply:
   a. Immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user.
   b. No appropriate alternative treatment is available, including administration of a drug that is not a Schedule II controlled substance.
   c. It is not reasonably possible for the prescribing practitioner to provide a manually signed written prescription to be presented to the pharmacy before the pharmacy dispenses the controlled substance or the prescribing practitioner is unable to provide a DEA-compliant electronic prescription to the pharmacy before the pharmacy dispenses the controlled substance.

10.22(2) Requirements of emergency prescription. In the case of an emergency situation as defined in subrule 10.22(1), a pharmacist may dispense a controlled substance listed in Schedule II pursuant to a facsimile transmission or upon receiving oral authorization of a prescribing individual practitioner provided that:
a. The quantity prescribed and dispensed is limited to the smallest available quantity to meet the needs of the patient during the emergency period. Dispensing beyond the emergency period requires a written prescription manually signed by the prescribing individual practitioner or a DEA-compliant electronic prescription.

b. If the pharmacist does not know the prescribing individual practitioner, the pharmacist shall make a reasonable effort to determine that the authorization came from an authorized prescriber. The pharmacist shall record the manner by which the authorization was verified and include the pharmacist’s name or unique identification.

c. The pharmacist shall prepare a temporary written record of the emergency prescription. The temporary written record shall consist of a hard copy of the facsimile transmission or a written record of the oral transmission authorizing the emergency dispensing. A written record is not required to consist of a handwritten record and may be a printed facsimile or a print of a computer-generated record of the prescription if the printed record includes all of the required elements for the prescription. If the emergency prescription is transmitted by the practitioner’s agent, the record shall include the first and last names and title of the individual who transmitted the prescription.

d. If the emergency prescription is transmitted via facsimile transmission, the means of transmission shall not obscure or render the prescription information illegible due to security features of the paper utilized by the prescriber to prepare the written prescription, and the hard-copy record of the facsimile transmission shall not be obscured or rendered illegible due to such security features.

e. Within seven days after authorizing an emergency prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of 657—10.21(124,126,155A), the prescription shall have written on its face “Authorization for Emergency Dispensing” and the date of the emergency order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be postmarked within the seven-day period. The written prescription shall be attached to and maintained with the temporary written record prepared pursuant to paragraph “c.”

f. The pharmacist shall notify the board and the DEA if the prescribing individual fails to deliver a written prescription. Failure of the pharmacist to so notify the board and the DEA, or failure of the prescribing individual to deliver the required written prescription as herein required, shall void the authority conferred by this subrule.

[ARC 7636B, IAB 3/11/09, effective 4/15/09; ARC 9410B, IAB 3/9/11, effective 4/13/11; ARC 9912B, IAB 12/14/11, effective 1/18/12]

657—10.23(124) Schedule II prescriptions—partial filling. The partial filling of a prescription for a controlled substance listed in Schedule II is permitted as provided in this rule.

10.23(1) Insufficient supply on hand. If the pharmacist is unable to supply the full quantity called for in a prescription and makes a notation of the quantity supplied on the prescription record, a partial fill of the prescription is permitted. The remaining portion of the prescription must be filled within 72 hours of the first partial filling. If the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall so notify the prescriber. No further quantity may be supplied beyond 72 hours without a new prescription.

10.23(2) Long-term care or terminally ill patient. A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units as provided by this subrule.

a. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to ensure that the controlled substance is for a terminally ill patient.

b. The pharmacist shall record on the prescription whether the patient is “terminally ill” or an “LTCF patient.” For each partial filling, the dispensing pharmacist shall record on the back of the
prescription, or on another appropriate uniformly maintained and readily retrievable record, the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.

c. The total quantity of Schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed. Schedule II prescriptions for patients in a LTCF or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

d. Information pertaining to current Schedule II prescriptions for patients in a LTCF or for patients with a medical diagnosis documenting a terminal illness may be maintained in a computerized system pursuant to rule 657—21.4(124,155A).

657—10.24(124) Schedule II medication order. Schedule II controlled substances may be administered or dispensed to institutionalized patients pursuant to a medication order as provided in 657—subrule 7.13(1) or rule 657—23.18(124,155A), as applicable.

657—10.25(124) Schedule II—issuing multiple prescriptions. An individual prescriber may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled substance pursuant to the provisions and limitations of this rule.

10.25(1) Refills prohibited. The issuance of refills for a Schedule II controlled substance is prohibited. The use of multiple prescriptions for the dispensing of Schedule II controlled substances, pursuant to this rule, ensures that the prescriptions are treated as separate dispensing authorizations and not as refills of an original prescription.

10.25(2) Legitimate medical purpose. Each separate prescription issued pursuant to this rule shall be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of the prescriber’s professional practice.

10.25(3) Dates and instructions. Each prescription issued pursuant to this rule shall be dated as of and manually signed by the prescriber on the day the prescription is issued. Each separate prescription, other than the first prescription if that prescription is intended to be filled immediately, shall contain written instructions indicating the earliest date on which a pharmacist may fill each prescription.

10.25(4) Authorized fill date unalterable. Regardless of the provisions of subrule 10.21(5), when a prescription contains instructions from the prescriber indicating that the prescription shall not be filled before a certain date, a pharmacist shall not fill the prescription before that date. The pharmacist shall not contact the prescriber for verbal authorization to fill the prescription before the fill date originally indicated by the prescriber pursuant to this rule.

10.25(5) Number of prescriptions and authorized quantity. An individual prescriber may issue for a patient as many separate prescriptions, to be filled sequentially pursuant to this rule, as the prescriber deems necessary to provide the patient with adequate medical care. The cumulative effect of the filling of each of these separate prescriptions shall result in the receipt by the patient of a quantity of the Schedule II controlled substance not exceeding a 90-day supply.

10.25(6) Prescriber’s discretion. Nothing in this rule shall be construed as requiring or encouraging an individual prescriber to issue multiple prescriptions pursuant to this rule or to see the prescriber’s patients only once every 90 days when prescribing Schedule II controlled substances. An individual prescriber shall determine, based on sound medical judgment and in accordance with established medical standards, how often to see patients and whether it is appropriate to issue multiple prescriptions pursuant to this rule.

[ARC 8172B, IAB 9/23/09, effective 10/28/09]

657—10.26 Reserved.

657—10.27(124,155A) Facsimile transmission of a controlled substance prescription. With the exception of an authorization for emergency dispensing as provided in rule 657—10.22(124), a prescription for a controlled substance may be transmitted via facsimile from a prescriber to a pharmacy as provided in rule 657—21.9(124,155A).
10.27(1) Schedule II prescription. A prescription for a Schedule II controlled substance may be transmitted via facsimile to the pharmacy only as provided in rules 657—21.12(124,155A) to 657—21.16(124,155A).

10.27(2) Schedule III, IV, or V prescription. A prescription for a Schedule III, IV, or V controlled substance may be transmitted via facsimile to the pharmacy only as provided in rule 657—21.9(124,155A).

[ARC 9912B, IAB 12/14/11, effective 1/18/12]

657—10.28(124,155A) Schedule III, IV, or V refills. No prescription for a controlled substance listed in Schedule III, IV, or V shall be filled or refilled more than six months after the date on which it was issued nor be refilled more than five times.

10.28(1) Record. Each filling and refilling of a prescription shall be entered on the prescription or on another uniformly maintained and readily retrievable record.

a. The following information shall be retrievable by the prescription number: the name and dosage form of the controlled substance, the date filled or refilled, the quantity dispensed, the unique identification of the dispensing pharmacist for each refill, and the total number of refills authorized for that prescription.

b. If the pharmacist merely initials or affixes the pharmacist’s unique identifier and dates the back of the prescription, it shall be deemed that the full face amount of the prescription has been dispensed.

10.28(2) Oral refill authorization. The prescribing practitioner may authorize additional refills of Schedule III, IV, or V controlled substances on the original prescription through an oral refill authorization transmitted to the pharmacist provided the following conditions are met:

a. The total quantity authorized, including the amount of the original prescription, does not exceed five refills nor extend beyond six months from the date of issuance of the original prescription.

b. The pharmacist who obtains the oral authorization records from the prescriber who issued the original prescription records on or with the original prescription the date, the quantity of each refill, the number of additional refills authorized, and the pharmacist’s unique identification.

c. The quantity of each additional refill is equal to or less than the quantity authorized for the initial filling of the original prescription.

d. The prescribing practitioner must execute a new and separate prescription for any additional quantities beyond the five-refill, six-month limitation.

10.28(3) Automated data processing record system. An automated data processing record system may be used for the storage and retrieval of Schedule III, IV, and V controlled substance prescription fill and refill information subject to the conditions and requirements of rules 657—21.4(124,155A) and 657—21.5(124,155A).

657—10.29(124,155A) Schedule III, IV, or V partial fills. The partial filling of a prescription for a controlled substance listed in Schedule III, IV, or V is permissible provided that each partial fill is recorded in the same manner as a refill. The total quantity dispensed in all partial fills shall not exceed the total quantity prescribed. No dispensing shall occur later than six months after the date on which the prescription was issued.

657—10.30(124,155A) Schedule III, IV, and V medication order. A Schedule III, IV, or V controlled substance may be administered or dispensed to institutionalized patients pursuant to a medication order as provided in 657—subrule 7.13(1) or rule 657—23.9(124,155A), as applicable.

657—10.31(124,155A) Dispensing Schedule V controlled substances without a prescription. A controlled substance listed in Schedule V, which substance is not a prescription drug as determined under the federal Food, Drug and Cosmetic Act, and excepting products containing ephedrine, pseudoephedrine, or phenylpropanolamine, may be dispensed or administered without a prescription by a pharmacist to a purchaser at retail pursuant to the conditions of this rule.

10.31(1) Who may dispense. Dispensing shall be by a licensed Iowa pharmacist or by a registered pharmacist-intern under the direct supervision of a pharmacist preceptor. This subrule does not prohibit,
after the pharmacist has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by a nonpharmacist.

10.31(2) Frequency and quantity. Dispensing at retail to the same purchaser in any 48-hour period shall be limited to no more than one of the following quantities of a Schedule V controlled substance:

a. 240 cc (8 ounces) of any controlled substance containing opium.

b. 120 cc (4 ounces) of any other controlled substance.

c. 48 dosage units of any controlled substance containing opium.

d. 24 dosage units of any other controlled substance.

10.31(3) Age of purchaser. The purchaser shall be at least 18 years of age.

10.31(4) Identification. The pharmacist shall require every purchaser under this rule not known by the pharmacist to present a government-issued photo identification, including proof of age when appropriate.

10.31(5) Record. A bound record book (i.e., with pages sewn or glued to the spine) for dispensing of Schedule V controlled substances pursuant to this rule shall be maintained by the pharmacist. The book shall contain the name and address of each purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or unique identification of the pharmacist or pharmacist-intern who approved the dispensing of the substance to the purchaser.

10.31(6) Prescription not required under other laws. No other federal or state law or regulation requires a prescription prior to distributing or dispensing a Schedule V controlled substance.

657—10.32(124,155A) Dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription. A product containing ephedrine, pseudoephedrine, or phenylpropanolamine, which substance is a Schedule V controlled substance and is not listed in another controlled substance schedule, may be dispensed or administered without a prescription by a pharmacist to a purchaser at retail pursuant to the conditions of this rule.

10.32(1) Who may dispense. Dispensing shall be by a licensed Iowa pharmacist or by a registered pharmacist-intern under the direct supervision of a pharmacist preceptor. This subrule does not prohibit, after the pharmacist has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by a nonpharmacist.

10.32(2) Packaging of nonliquid forms. A nonliquid form of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine includes gel caps. Nonliquid forms of these products to be sold pursuant to this rule shall be packaged either in blister packaging with each blister containing no more than two dosage units or, if blister packs are technically infeasible, in unit dose packets or pouches.

10.32(3) Frequency and quantity. Dispensing at retail to the same purchaser within any 30-day period shall be limited to products collectively containing no more than 7,500 mg of ephedrine, pseudoephedrine, or phenylpropanolamine; dispensing at retail to the same purchaser within a single calendar day shall not exceed 3,600 mg.

10.32(4) Age of purchaser. The purchaser shall be at least 18 years of age.

10.32(5) Identification. The pharmacist shall require every purchaser under this rule to present a current government-issued photo identification, including proof of age when appropriate. The pharmacist shall be responsible for verifying that the name on the identification matches the name provided by the purchaser and that the photo image depicts the purchaser.

10.32(6) Record. Purchase records shall be recorded in the real-time electronic pseudoephedrine tracking system (PTS) established and administered by the governor’s office of drug control policy pursuant to 657—Chapter 100. If the real-time electronic repository is unavailable for use, the purchase record shall be recorded in an alternate format and submitted to the PTS as provided in 657—subrule 100.3(4).

a. Alternate record contents. The alternate record shall contain the following:

1. The name, address, and signature of the purchaser.
(2) The name and quantity of the product purchased, including the total milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine contained in the product.
(3) The date and time of the purchase.
(4) The name or unique identification of the pharmacist or pharmacist-intern who approved the dispensing of the product.

b. **Alternate record format.** The record shall be maintained using one of the following options:
   (1) A hard-copy record.
   (2) A record in the pharmacy’s electronic prescription dispensing record-keeping system that is capable of producing a hard-copy printout of a record.
   (3) A record in an electronic data collection system that captures each of the data elements required by this subrule and that is capable of producing a hard-copy printout of a record.

c. **PTS records retrieval.** Pursuant to 657—subrule 100.4(6), the pharmacy shall be able to produce a hard-copy printout of transactions recorded in the PTS by the pharmacy for one or more specific products for a specified period of time upon request by the board or its representative or to such other persons or governmental agencies authorized by law to receive such information.

10.32(7) **Notice required.** The pharmacy shall ensure that the following notice is provided to purchasers of ephedrine, pseudoephedrine, or phenylpropanolamine products and that the notice is displayed with or on the electronic signature device or is displayed in the dispensing area and visible to the public:

“**WARNING:** Section 1001 of Title 18, United States Code, states that whoever, with respect to the logbook, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, shall be fined not more than $250,000 if an individual or $500,000 if an organization, imprisoned not more than five years, or both.”

[ARC 8892B, IAB 6/30/10, effective 9/1/10]

657—10.33(124,155A) **Schedule II perpetual inventory in pharmacy.** Each pharmacy located in Iowa that dispenses Schedule II controlled substances shall maintain a perpetual inventory system for all Schedule II controlled substances pursuant to the requirements of this rule. All records relating to the perpetual inventory shall be maintained by the pharmacy and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record.

10.33(1) **Record format.** The perpetual inventory record may be maintained in a manual or an electronic record format. Any electronic record shall provide for hard-copy printout of all transactions recorded in the perpetual inventory record for any specified period of time and shall state the current inventory quantities of each drug at the time the record is printed.

10.33(2) **Information included.** The perpetual inventory record shall identify all receipts for and disbursements of Schedule II controlled substances by drug or by national drug code (NDC) number. The record shall be updated to identify each prescription filled and each shipment received. The record shall also include incident reports and reconciliation records pursuant to subrules 10.33(3) and 10.33(4).

10.33(3) **Changes to a record.** If a perpetual inventory record is able to be changed, the individual making a change to the record shall complete an incident report documenting the change. The incident report shall identify the specific information that was changed including the information before and after the change, shall identify the individual making the change, and shall include the date and the reason the record was changed. If the electronic record system documents within the perpetual inventory record all of the information that must be included in an incident report, a separate report is not required.

10.33(4) **Reconciliation.** The pharmacist in charge shall be responsible for reconciling the physical inventory of all Schedule II controlled substances with the perpetual inventory balance on a periodic basis but no less frequently than annually. In case of any discrepancies between the physical inventory and the perpetual inventory, the pharmacist in charge shall determine the need for further investigation, and significant discrepancies shall be reported to the board pursuant to rule 657—10.16(124) and to the DEA pursuant to federal DEA regulations. Periodic reconciliation records shall be maintained and
available for review and copying by the board or agents of the board for a period of two years from the
date of the record. The reconciliation process may be completed using either of the following procedures
or a combination thereof:

a. The dispensing pharmacist verifies that the physical inventory matches the perpetual inventory
following each dispensing and documents that reconciliation in the perpetual inventory record. If
controlled substances are maintained on the patient care unit, the nurse or other responsible licensed
health care provider verifies that the physical inventory matches the perpetual inventory following each
dispensing and documents that reconciliation in the perpetual inventory record. All discrepancies shall
be reported to the pharmacist in charge. If any Schedule II controlled substances in the pharmacy’s
current inventory have been dispensed and verified in this manner within the year, and there are no
discrepancies noted, no additional reconciliation action is required. A drug that has had no activity
within the year shall be reconciled pursuant to paragraph “b” of this subrule.

b. A physical count of each Schedule II controlled substance stocked by the pharmacy shall be
completed at least once each year, and that count shall be reconciled with the perpetual inventory record
balance. The physical count and reconciliation may be completed over a period of time not to exceed
one year in a manner that ensures that the perpetual inventory and the physical inventory of Schedule II
controlled substances are annually reconciled. The individual performing the reconciliation shall record
the date, the time, the individual’s initials or unique identification, and any discrepancies between the
physical inventory and the perpetual inventory. Any discrepancies between the physical inventory and
the perpetual inventory shall be reported to the pharmacist in charge.

657—10.34(124,155A) Records. Every inventory or other record required to be kept under this chapter
or under Iowa Code chapter 124 shall be kept by the registrant and be available for inspection and copying
by the board or its representative for at least two years from the date of such inventory or record except
as otherwise required in these rules. Controlled substances records shall be maintained in a readily
retrievable manner that establishes the receipt and distribution of all controlled substances. Original
hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a
secure storage area outside the licensed pharmacy department unless such remote storage is prohibited
under federal law. A remote storage area shall be located within the same physical structure containing
the licensed pharmacy department.

10.34(1) Schedule I and II records. Inventories and records of controlled substances listed in
Schedules I and II shall be maintained separately from all other records of the registrant.

10.34(2) Schedule III, IV, and V records. Inventories and records of controlled substances listed in
Schedules III, IV, and V shall be maintained either separately from all other records of the registrant or
in such form that the required information is readily retrievable from the ordinary business records of
the registrant.

10.34(3) Date of record. The date on which a controlled substance is actually received, imported,
distributed, exported, or otherwise transferred shall be used as the date of receipt or distribution.

10.34(4) Receipt and disbursement records. Each record of receipt or disbursement of controlled
substances, unless otherwise provided in these rules or pursuant to federal law, shall include the
following:

a. The name of the substance;

b. The strength and dosage form of the substance;

c. The number of units or commercial containers acquired from other registrants, including the
date of receipt and the name, address, and DEA registration number of the registrant from whom the
substances were acquired;

d. The number of units or commercial containers distributed to other registrants, including the
date of distribution and the name, address, and DEA registration number of the registrant to whom the
substances were distributed; and

e. The number of units or commercial containers disposed of in any other manner, including the
date and manner of disposal and the name, address, and DEA registration number of the registrant to
whom the substances were distributed for disposal, if appropriate.
10.34(5) **Dispensing records.** Each record of dispensing of controlled substances to a patient or research subject shall include the following information:

a. The name and address of the person to whom dispensed;
b. The date of dispensing;
c. The name of the substance;
d. The quantity of the substance dispensed; and
e. The name or unique identification of the individual who dispensed or administered the substance.

10.34(6) **Ordering or distributing Schedule I or II controlled substances - DEA Form 222.** Except as otherwise provided by subrule 10.34(7) and under federal law, a DEA Form 222 is required for each distribution of a Schedule I or II controlled substance. An order form may be executed only on behalf of the registrant named on the order form and only if the registrant’s DEA and Iowa registrations for the substances being purchased have not expired or been revoked or suspended by the issuing agency.

a. Order forms shall be obtained, executed, and filled pursuant to DEA requirements. Each form shall be complete, legible, and properly prepared, executed, and endorsed and shall contain no alteration, erasure, or change of any kind.
b. The purchaser shall submit Copy 1 and Copy 2 of the order form to the supplier.
c. The purchaser shall maintain Copy 3 of the order form in the files of the registrant. Upon receipt of the substances from the supplier, the purchaser shall record on Copy 3 of the order form the quantity of each substance received, and the date of receipt, and shall initial each line identifying a substance received.
d. The supplier shall record on Copy 1 and Copy 2 of the order form the quantity of each substance distributed to the purchaser and the date on which the shipment is made. The supplier shall maintain Copy 1 of the order form in the files of the supplier and shall forward Copy 2 of the order form to the DEA district office.
e. Order forms shall be maintained separately from all other records of the registrant.
f. Each unaccepted, defective, or otherwise “void” order form and any attached statement or other documents relating to any order form shall be maintained in the files of the registrant.
g. If the registration of any purchaser of Schedule I or II controlled substances is terminated for any reason, or if the name or address of the registrant as shown on the registration is changed, the registrant shall return all unused order forms to the DEA district office.

10.34(7) **Ordering or distributing Schedule I or II controlled substances - electronic ordering system.** A registrant authorized to order or distribute Schedule I or II controlled substances via the DEA Controlled Substances Ordering System (CSOS) shall comply with the requirements of the DEA relating to that system, including the maintenance and security of digital certificates, signatures, and passwords and all record-keeping and reporting requirements.

a. For an electronic order to be valid, the purchaser shall sign the electronic order with a digital signature issued to the purchaser or the purchaser’s agent by the DEA.
b. An electronic order may include controlled substances that are not in Schedules I and II and may also include noncontrolled substances.
c. A purchaser shall submit an order to a specific wholesale distributor appropriately licensed to distribute in Iowa.
d. Prior to filling an order, a supplier shall verify the integrity of the signature and the order, verify that the digital certificate has not expired, check the validity of the certificate, and verify the registrant’s authority to order the controlled substances.
e. The supplier shall retain an electronic record of every order, including a record of the number of commercial or bulk containers furnished for each item and the date on which the supplier shipped the containers to the purchaser. The shipping record shall be linked to the electronic record of the order. Unless otherwise provided under federal law, a supplier shall ship the controlled substances to the registered location associated with the digital certificate used to sign the order.
f. If an order cannot be filled for any reason, the supplier shall notify the purchaser and provide a statement as to the reason the order cannot be filled. When a purchaser receives such a statement from a
supplier, the purchaser shall electronically link the statement of nonacceptance to the original electronic order. Neither a purchaser nor a supplier may correct a defective order; the purchaser must issue a new order for the order to be filled.

g. When a purchaser receives a shipment, the purchaser shall create a record of the quantity of each item received and the date received. The record shall be electronically linked to the original order and shall identify the individual reconciling the order. A purchaser shall, for each order filled, retain the original signed order and all linked records for that order for two years. The purchaser shall also retain all copies of each unfilled or defective order and each linked statement.

h. A supplier shall retain each original order filled and all linked records for two years. A supplier shall, for each electronic order filled, forward to the DEA within two business days either a copy of the electronic order or an electronic report of the order in a format specified by the DEA.

i. Records of CSOS electronic orders and all linked records shall be maintained by a supplier and a purchaser for two years following the date of shipment or receipt, respectively. Records may be maintained electronically or in hard-copy format. Records that are maintained electronically shall be readily retrievable from all other records, shall be easily readable or easily rendered into a readable format, shall be readily retrievable at the registered location, and shall be made available to the board, to the board’s agents, or to the DEA upon request. Records maintained in hard-copy format shall be maintained in the same manner as DEA Form 222.

657—10.35(124,155A) Physical count and record of inventory. Responsibility for ensuring that a required inventory is timely completed shall rest with the registrant or, in the case of a registered business, shall rest with the owner of the business. A registrant or owner of a registered business may delegate the actual taking of any inventory. The person or persons responsible for taking the inventory shall sign the completed inventory record.

10.35(1) Record and procedure. Each inventory record, except the periodic count and reconciliation required pursuant to subrule 10.35(4), shall comply with the requirements of this subrule and shall be maintained for a minimum of two years from the date of the inventory.

a. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date and at the time the inventory is taken.

b. Each inventory shall be maintained in a handwritten, typewritten, or electronically printed form at the registered location. An inventory of Schedule II controlled substances shall be maintained separately from an inventory of all other controlled substances.

c. Controlled substances shall be deemed to be on hand if they are in the possession of or under the control of the registrant. These shall include prescriptions prepared for dispensing to a patient but not yet delivered to the patient, substances maintained in emergency medical services programs or care facility emergency supplies, outdated or adulterated substances pending destruction, and substances stored in a warehouse on behalf of the registrant.

d. A separate inventory shall be made for each registered location and for each independent activity registered except as otherwise provided under federal law.

e. The inventory shall be taken either prior to opening or following the close of business on the inventory date, and the inventory record shall identify either opening or close of business.

f. The inventory record, unless otherwise provided under federal law, shall include the following information:

1. The name of the substance;
2. The strength and dosage form of the substance; and
3. The quantity of the substance.

h. For all substances listed in Schedule I or II, and for all solid oral and injectable hydrocodone-containing products, the quantity shall be an exact count or measure of the substance.

i. For all substances listed in Schedule III, IV, or V, except for hydrocodone-containing products identified in paragraph “g” herein, the quantity may be an estimated count or measure of the substance unless the container has been opened and originally held more than 100 dosage units. If the opened
commercial container originally held more than 100 dosage units, an exact count of the contents shall be made. Liquid oral hydrocodone-containing products packaged in incremented containers shall be measured to the nearest increment; products packaged in nonincremented containers may be estimated to the nearest one-fourth container.

10.35(2) Initial inventory. A new registrant shall take an inventory of all stocks of controlled substances on hand on the date the new registrant first engages in the manufacture, distribution, or dispensing of controlled substances. If the registrant commences business or the registered activity with no controlled substances on hand, the initial inventory shall record that fact.

10.35(3) Annual inventory. After the initial inventory is taken, a registrant shall take a new inventory of all stocks of controlled substances on hand at least annually. The annual inventory may be taken on any date that is within one year of the previous inventory date.

10.35(4) Change of ownership. Both the current owner and the prospective owner shall be responsible for ensuring that an inventory of all controlled substances is timely completed whenever there is a change of ownership of any pharmacy or drug wholesaler licensed pursuant to Iowa Code section 155A.13 or 155A.17, respectively.

10.35(5) Change of pharmacist in charge (PIC). An inventory of all controlled substances shall be completed whenever there is a change of PIC. The inventory shall be taken following the close of business the last day of the terminating PIC’s employment and prior to opening for business the first day of the new PIC’s employment. A single inventory shall be sufficient if there is no lapse between employment of the terminating PIC and the new PIC.

10.35(6) Change of registered location. A registrant shall take an inventory of all controlled substances whenever there is a change of registered location. The inventory shall be taken following the close of business the last day at the location being vacated. This inventory shall serve as the ending inventory for the location being vacated as well as a record of beginning inventory for the new location.

10.35(7) Discontinuing registered activity. A registrant shall take an inventory of controlled substances at the close of business the last day the registrant is engaged in registered activities. If the registrant is selling or transferring the remaining controlled substances to another registrant, this inventory shall serve as the ending inventory for the registrant discontinuing business as well as a record of additional or starting inventory for the registrant to whom the substances are transferred.

10.35(8) Newly controlled substances. On the effective date of the addition of a previously noncontrolled substance to any schedule of controlled substances, any registrant who possesses the newly controlled substance shall take an inventory of all stocks of the substance on hand. That initial inventory record shall be maintained with the most recent controlled substances inventory record. Thereafter, the newly controlled substance shall be included in each inventory made by the registrant.

657—10.36(124) Samples and other complimentary packages—records. Complimentary packages and samples of controlled substances may be distributed to practitioners pursuant to federal and state law only if the person distributing the items leaves with the practitioner a specific written list of the items delivered.

10.36(1) Distribution record. The record form for the distribution of complimentary packages of controlled substances shall contain the following information:

a. The name, address, and DEA registration number of the supplier;
b. The name, address, and DEA registration number of the practitioner;
c. The name, strength, and quantity of the specific controlled substances delivered; and
d. The date of delivery.

10.36(2) Reports to the board. Any person who distributes controlled substances pursuant to this rule shall report all such distributions to the board. Reports shall:

a. Include the information identified in subrule 10.36(1). Reports may consist of copies of those distribution records or may be computer-generated listings identifying those distributions.
b. Be submitted as soon as practicable after distribution to the practitioner but no less often than once each calendar quarter.
10.36(3) Practitioner records. A practitioner who regularly administers or dispenses controlled substances shall keep records of the receipt and disbursement of such drugs, including complimentary packages and samples. Records shall be filed in a readily retrievable manner in accordance with federal requirements and shall be made available for inspection and copying by agents of the board or other authorized individuals for at least two years from the date of the record.

657—10.37(124,126) Revision of controlled substances schedules.

10.37(1) Application for exception. Any person seeking to have any compound, mixture, or preparation containing any depressant or stimulant substance listed in any of the schedules in Iowa Code chapter 124 excepted from the application of all or any part of that chapter may apply to the board for such exception.

a. An application for an exception under this rule shall provide evidence that an exception has been granted under the federal Controlled Substances Act.

b. The board shall permit any interested person to file written comments on or objections to the proposal for exception and shall designate the time during which such filings may be made. After consideration of the application and any comments on or objections to the proposal for exception, the board shall issue its findings on the application.

10.37(2) Designation of new controlled substance. The board may designate any new substance as a controlled substance to be included in any of the schedules in Iowa Code chapter 124 no sooner than 30 days following publication in the Federal Register of a final order so designating the substance under federal law. Designation of a new controlled substance under this subrule shall be temporary as provided in Iowa Code section 124.201, subsection 4.

10.37(3) Objection to designation of a new controlled substance. The board may object to the designation of any new substance as a controlled substance within 30 days following publication in the Federal Register of a final order so designating the substance under federal law. The board shall file objection to the designation of a substance as controlled, shall afford all interested parties an opportunity to be heard, and shall issue the board’s decision on the new designation as provided in Iowa Code section 124.201, subsection 4.

657—10.38(124) Temporary designation of controlled substances.

10.38(1) Amend Iowa Code section 124.204 by adding the following new subsection 9:

9. Temporary listing of substances subject to Schedule I. Any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methane, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole.

b. [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methane, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropyl)indole.

c. (1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: APINACA, AKB48.

10.38(2) Reserved.

[ARC 7996B, IAB 7/1/09, effective 6/22/09; ARC 8411B, IAB 12/30/09, effective 12/1/09; ARC 8989B, IAB 8/11/10, effective 7/21/10; ARC 9091B, IAB 9/22/10, effective 8/30/10; ARC 0893C, IAB 8/7/13, effective 7/9/13]

657—10.39(124,126) Excluded substances. The Iowa board of pharmacy hereby excludes from all schedules the current list of “Excluded Nonnarcotic Products” identified in Title 21, CFR Part 1308, Section 22. Copies of the list of excluded products may be obtained by written request to the board office at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688.

657—10.40(124,126) Anabolic steroid defined. Anabolic steroid, as defined in Iowa Code section 126.2, paragraph 2, includes any substance identified as such in Iowa Code section 124.208, paragraph 6, or in Iowa Code section 126.2, paragraph 2.
657—10.41(124A) Designation of imitation controlled substances.

10.41(1) Synthetic cannabinoids. The following synthetic cannabinoids, including products by whatever trade name that are treated, sprayed, or saturated with these synthetic cannabinoids, are designated imitation controlled substances subject to the provisions of Iowa Code chapter 124A:

a. Dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methylcoctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-211.

b. 1-buty1-3(1-naphthoyl) indole, also known as JWH-073.

c. 1-pentyl-3(1-naphthoyl) indole, also known as JWH-018.

d. Phenol, CP 47, 497 and homologues, or 2-[(1R,3S)-3-hydroxy-1-cyclohexyl]-5-(2-methylcoctan-2-yl)phenol, where side chain n=5, and homologues where side chain n=4, 6, or 7.

10.41(2) Product examples. Some currently marketed products containing the imitation controlled substances identified in subrule 10.41(1) include K2, Red Dragon Smoke, Spice, K2 Spice, Mojo, Smoke, Skunk, K2 Summit, and Pandora Potpourri.

[ARC 9000B, IAB 8/11/10, effective 7/22/10]

These rules are intended to implement Iowa Code sections 124.201, 124.301 to 124.308, 124.402, 124.403, 124.501, 126.2, 126.11, 147.88, 147.95, 147.99, 155A.13, 155A.17, 155A.26, 155A.37, and 205.3.

[Filed 9/29/71; amended 8/9/72, 12/15/72, 11/14/73, 8/14/74, 4/8/75]
[Filed 11/24/76, Notice 10/20/76—published 12/15/76, effective 1/19/77]
[Filed 11/9/77, Notice 8/24/77—published 11/30/77, effective 1/4/78]
[Filed 10/20/78, Notices 8/9/78, 9/6/78—published 11/15/78, effective 1/9/79]
[Filed 2/12/81, Notice 12/24/80—published 3/4/81, effective 7/1/81]
[Filed 7/24/81, Notice 5/13/81—published 8/19/81, effective 9/23/81]
[Filed emergency 12/14/81—published 1/6/82, effective 1/6/82]
[Filed emergency 10/6/82—published 10/27/82, effective 10/27/82]
[Filed 6/16/83, Notice 5/11/83—published 7/6/83, effective 8/10/83]
[Filed 2/23/84, Notice 11/23/83—published 3/14/84, effective 4/18/84]
[Filed emergency 8/10/84—published 8/29/84, effective 8/10/84]
[Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]
[Filed emergency 8/30/85—published 9/25/85, effective 9/6/85]
[Filed emergency 12/4/85—published 1/1/86, effective 12/5/85]
[Filed emergency 5/14/86—published 6/4/86, effective 5/16/86]
[Filed 5/14/86, Notice 4/9/86—published 6/4/86, effective 7/9/86]
[Filed 1/28/87, Notice 11/19/86—published 2/25/87, effective 4/1/87]
[Filed emergency 7/24/87—published 8/12/87, effective 7/24/87]
[Filed 8/5/87, Notice 6/3/87—published 8/26/87, effective 9/30/87]
[Filed emergency 1/21/88—published 2/10/88, effective 1/22/88]
[Filed emergency 8/5/88—published 8/24/88, effective 8/5/88]
[Filed emergency 10/13/88—published 11/2/88, effective 10/13/88]
[Filed emergency 5/16/89—published 6/4/89, effective 5/17/89]
[Filed emergency 9/12/89—published 10/4/89, effective 9/13/89]
[Filed 1/19/90, Notice 11/29/89—published 2/7/90, effective 3/14/90]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed emergency 1/29/91—published 2/20/91, effective 2/27/91]
[Filed 1/29/91, Notice 9/19/90—published 2/20/91, effective 3/27/91]
[Filed emergency 2/27/91—published 3/20/91, effective 2/27/91]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 7/30/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]
[Filed emergency 9/23/91—published 10/16/91, effective 9/23/91]
[Filed emergency 10/18/91—published 11/13/91, effective 10/21/91]
[Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 5/21/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
[Filed emergency 8/10/92—published 9/2/92, effective 8/10/92]
[Filed 10/22/92, Notice 9/2/92—published 11/11/92, effective 1/1/93]
[Filed 9/23/93, Notice 5/26/93—published 10/13/93, effective 11/17/93]
[Filed 3/22/95, Notice 11/9/94—published 4/12/95, effective 5/31/95]
[Filed 12/6/95, Notice 8/16/95—published 1/3/96, effective 2/7/96]
[Filed 11/19/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
[Filed 7/31/98, Notice 5/20/98—published 8/26/98, effective 9/30/98]
[Filed emergency 8/18/99—published 9/8/99, effective 8/18/99]
[Filed emergency 7/18/00—published 8/9/00, effective 7/18/00]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed emergency 12/13/02—published 1/8/03, effective 12/13/02]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 7/16/04]
[Filed 10/22/04, Notice 3/31/04—published 11/10/04, effective 12/15/04]
[Filed emergency 5/3/05—published 5/25/05, effective 5/21/05]
[Filed emergency 6/30/05 after Notice 5/11/05—published 7/20/05, effective 7/1/05]
[Filed 8/9/05, Notice 5/25/05—published 8/31/05, effective 10/5/05]
[Filed 3/22/06, Notice 12/21/05—published 4/12/06, effective 5/17/06]
[Filed 3/22/06, Notice 1/18/06—published 4/12/06, effective 5/17/06]
[Filed 5/17/06, Notice 4/12/06—published 6/7/06, effective 7/12/06]
[Filed 2/7/07, Notice 10/25/06—published 2/28/07, effective 4/4/07]
[Filed 5/14/07, Notice 2/28/07—published 6/6/07, effective 7/11/07]
[Filed emergency 8/2/07—published 8/29/07, effective 8/2/07]
[Filed emergency 11/13/07 after Notice 8/29/07—published 12/5/07, effective 11/13/07]
[Filed ARC 7636B (Notice ARC 7448B, IAB 12/31/08), IAB 3/11/09, effective 4/15/09]
[Filed Emergency ARC 7906B, IAB 7/1/09, effective 6/22/09]
[Filed ARC 8172B (Notice ARC 7908B, IAB 7/1/09), IAB 9/23/09, effective 10/28/09]
[Filed Emergency ARC 8411B, IAB 12/30/09, effective 12/1/09]
[Filed ARC 8539B (Notice ARC 8269B, IAB 11/4/09), IAB 2/24/10, effective 4/1/10]
[Filed ARC 8892B (Notice ARC 8667B, IAB 4/7/10), IAB 6/30/10, effective 9/1/10]
[Filed Emergency ARC 8989B, IAB 8/11/10, effective 7/21/10]
[Filed Emergency ARC 9000B, IAB 8/11/10, effective 7/22/10]
[Filed Emergency ARC 9091B, IAB 9/22/10, effective 8/30/10]
[Filed ARC 9410B (Notice ARC 9196B, IAB 11/3/10), IAB 3/9/11, effective 4/13/11]
[Filed ARC 9912B (Notice ARC 9671B, IAB 8/10/11), IAB 12/14/11, effective 1/18/12]
[Filed ARC 0504C (Notice ARC 0351C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 0749C (Notice ARC 0652C, IAB 3/20/13), IAB 5/29/13, effective 7/3/13]
[Filed Emergency ARC 0893C, IAB 8/7/13, effective 7/9/13]

\(^1\) Two or more ARCs

\(^2\) Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held September 11, 1991.
CHAPTER 601
APPLICATION FOR LICENSE

761—601.1(321) Application for license.

601.1(1) General. In addition to the information required under Iowa Code sections 321.182 and 321.196, the information in this rule is required from an applicant for a driver’s license. Additional requirements for a commercial driver’s license are found in 761—Chapter 607.

601.1(2) Name. The applicant’s full legal name shall be given on the application. Full legal name means an individual’s first name, middle name(s), and last name, without use of initials or nicknames. Civilian and military titles, initials and nicknames shall not be given and shall not be used on the applicant’s license or in the applicant’s record. This prohibition on the use of initials does not apply where a portion of an individual’s legal name, whether first, middle or last, consists of a single character, whether followed by a period or not.

601.1(3) Out-of-state verification. If a person is licensed in another licensing jurisdiction but does not have a current out-of-state license to surrender, the department may require an official letter from the out-of-state licensing agency before issuing a license. The official letter must verify the person’s driving record to assist the department in determining whether it is safe to grant the person a license.

601.1(4) Disabilities. The applicant shall indicate and explain any mental or physical disabilities which might affect the applicant’s ability to operate a motor vehicle safely.

601.1(5) Physical description. The applicant shall provide the applicant’s physical description, which shall consist of the applicant’s sex, height to the nearest inch, weight to the nearest pound, and eye color.

601.1(6) Address. The applicant shall provide the applicant’s current residential address and the applicant’s current mailing address, if different from the applicant’s current residential address. The applicant shall not provide as a mailing address an address for which a forwarding order is in place.

601.1(7) Signature.

a. The applicant’s signature shall be without qualification and shall contain only the applicant’s usual signature without any other titles, characters or symbols.

b. The applicant’s signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the applicant’s application are true and correct.

c. The applicant’s signature further certifies that the fee collected and the change returned, if any, is correct and acknowledges that the applicant is aware of the requirement to notify the department of a change in mailing address within 30 days of the change.

d. The applicant’s signature will be captured electronically.

This rule is intended to implement Iowa Code sections 321.182, 321.196 and 321C.1, Article V, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 0347C; IAB 10/3/12, effective 11/7/12]

761—601.2(321) Surrender of license and nonoperator’s identification card. An applicant for a driver’s license shall surrender all other driver’s licenses and nonoperator’s identification cards. This includes those issued by jurisdictions other than Iowa. An applicant who renews a driver’s license electronically pursuant to 761—subrule 605.25(7) shall destroy the previous driver’s license upon receipt of the renewed driver’s license.

This rule is intended to implement Iowa Code section 321.182.

[ARC 0895C; IAB 8/7/13, effective 7/9/13]

761—601.3 and 601.4 Reserved.

761—601.5(321) Proofs submitted with application. A person who applies for a new driver’s license or nonoperator’s identification card or a duplicate license or card to replace one that is lost, stolen or destroyed shall submit proof of identity, date of birth, social security number, Iowa residency and current residential address, and lawful status in the United States.
601.5(1) Verification of identity and date of birth. To establish identity and date of birth, an applicant must submit at least one of the following documents. The department may require additional documentation if the department believes that the documentation submitted is questionable or if the department has reason to believe that the person is not who the person claims to be.

a. A valid, unexpired U.S. passport or U.S. passport card.

b. A certified copy of a birth certificate and, if applicable, a certified amended birth certificate showing a change in name, date of birth, or sex, filed with a state office of vital statistics or equivalent agency in the applicant’s state of birth. The birth certificate must be a certified copy and have the stamp or raised seal of the issuing authority. A hospital-issued certificate is not acceptable. As used herein, “state” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.


e. An unexpired employment authorization document issued by the U.S. Department of Homeland Security (Form I-766 or Form I-688B).

f. An unexpired foreign passport with a U.S. visa affixed, accompanied by the approved I-94 form documenting the applicant’s most recent admittance into the United States.

g. A Certificate of Naturalization issued by the U.S. Department of Homeland Security (Form N-550 or Form N-570).

h. A Certificate of Citizenship (Form N-560 or Form N-561) issued by the U.S. Department of Homeland Security.

i. A REAL ID driver’s license or identification card issued in compliance with the standards established by 6 CFR Part 37.

j. Such other documents as the U.S. Department of Homeland Security may designate as acceptable proof of identity and date of birth for REAL ID purposes by notice published in the Federal Register.

k. An Inmate Descriptor Inquiry, Client Information Inquiry or Offender Snapshot document issued by the Iowa department of corrections or the United States District Court, Northern and Southern Districts of Iowa. The document must contain the applicant’s full legal name and date of birth and be notarized. An applicant who provides only a document listed in this paragraph shall not be eligible for a driver’s license or nonoperator’s identification card marked as acceptable for federal purposes under 6 CFR Part 37.

601.5(2) Verification of social security number.

a. Except as provided in paragraph 601.5(2)“b,” an applicant must present the applicant’s Social Security Administration’s account number card; or if a social security account number card is not available, the applicant may present any of the following documents bearing the applicant’s social security number:

(1) A W-2 form.

(2) A Social Security Administration-1099 form.

(3) A non-Social Security Administration-1099 form.

(4) A pay stub with the applicant’s name and social security number on it.

b. An applicant who establishes identity by presenting the identity document listed in paragraph 601.5(1)“f” (unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant’s most recent admittance into the United States) must document the applicant’s social security number as set forth in paragraph 601.5(2)“a” or demonstrate non-work authorized status.

601.5(3) Verification of Iowa residency and current residential address.

a. To document Iowa residency and current residential address, an applicant must present two documents that include the applicant’s name and current Iowa residential address and that demonstrate residency in the state of Iowa. Acceptable documents are documents issued by a person, organization, or
entity other than the applicant, that include the issuer’s name and address, include the applicant’s name and current residential address, and demonstrate residency in the state of Iowa. The documents must be reasonable, authentic documents capable of verification by the department.

b. The address must be a street or highway address, and may not be a post office box. In areas where a number and street name have not been assigned, an address convention used by the U.S. Postal Service is acceptable. The current residence of a person with more than one dwelling is the dwelling for which the person claims a homestead tax credit under Iowa Code chapter 425, if applicable.

c. An applicant who is a member of the armed forces and is an Iowa resident stationed in another state may use the applicant’s address in the state of station as the applicant’s current residential address if the applicant does not maintain an Iowa residence during the applicant’s deployment outside the state of Iowa. The applicant must provide official documentation confirming the applicant’s residential address in the state of station and that the applicant is stationed in that state. The applicant’s mailing address may be the applicant’s current residential address or another address at which the applicant receives mail.

d. An applicant who is a dependent family member of and resides with a member of the armed forces who is an Iowa resident stationed in another state may use the applicant’s address in the state of station as the applicant’s current residential address if the applicant does not maintain an Iowa residence during the applicant’s deployment outside the state of Iowa. The applicant must provide official documentation confirming the applicant’s residential address in the state of station and that the applicant is a dependent family member of a member of the armed forces stationed in that state. The applicant’s mailing address may be the applicant’s current residential address or another address at which the applicant receives mail.

601.5(4) Verification of lawful status in the United States.

a. If an applicant presents one of the identity documents listed under subrule 601.5(1), the department’s verification of that identity document is satisfactory evidence of lawful status.

b. An applicant who presents only a document listed under subrule 601.5(1), paragraph “e,” “f,” or “i,” is not eligible to receive a driver’s license or nonoperator’s identification card marked as REAL ID compliant unless the applicant also provides one of the other documents listed in subrule 601.5(1), or another United States Department of Homeland Security-approved document.

601.5(5) Verification of name change. The name listed on the driver’s license or nonoperator’s identification card that is issued shall be identical to the name listed on the identity document submitted unless the applicant submits an affidavit of name change on Form 430043. The affidavit must be accompanied by the chain of legal documents necessary to show the legal change of the applicant’s name from the identity document submitted to the name listed on the affidavit. The following documents are acceptable:

a. Court-ordered name change. A court order must contain the applicant’s prior full legal name, the applicant’s court-ordered full legal name, the applicant’s date of birth, and the official court seal. Acceptable court orders include orders under petition for name change, orders for name change set forth in a decree of dissolution, and orders for name change set forth in a decree of adoption.

b. Marriage certificate. The marriage certificate must be filed with a state office of vital statistics or equivalent agency in the person’s state or country of marriage. The certificate must be a certified copy and have the stamp or raised seal of the issuing authority. A church, chapel or similarly issued certificate is not acceptable. As used herein, “state” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

601.5(6) Verification of change of date of birth. The date of birth listed on the driver’s license or nonoperator’s identification card that is issued shall be identical to the date of birth listed on the identity document submitted unless the applicant submits a certified amended birth certificate that documents the change of date of birth and that meets the requirements of paragraph 601.5(1) “b,” or submits a court-ordered date of birth change. The court order must contain the applicant’s full legal name, the applicant’s prior date of birth, the applicant’s court-ordered date of birth, and official court seal.

601.5(7) Verification of change of sex designation. The sex designation listed on the driver’s license or nonoperator’s identification card that is issued shall be identical to the sex designation listed on
the identity document submitted unless the applicant submits a certified amended birth certificate that documents the change of sex designation and that meets the requirements of paragraph 601.5(1)“b.” or submits a court-ordered change of sex designation. The court order must contain the applicant’s full legal name, the applicant’s date of birth, the applicant’s prior sex designation, the applicant’s court-ordered sex designation, and official court seal.

This rule is intended to implement Iowa Code sections 321.182 and 321.189, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 0347C, IAB 10/3/12, effective 11/7/12]

761—601.6(321) Parental consent. An unmarried person under the age of 18 who applies for an Iowa license shall submit parental consent and birth date confirmation on Form 430018, Parent's Written Consent to Issue Privilege to Drive or Affidavit to Obtain Duplicate. The parent’s signature must be notarized; however, in lieu of notarization it may be witnessed by a driver’s license examiner or clerk. No exception shall be made for parental absence from Iowa. A married person under the age of 18 shall submit an original or certified copy of a marriage certificate to avoid submission of the consent form.

This rule is intended to implement Iowa Code section 321.184.

[ARC 7902B, IAB 7/1/09, effective 8/5/09]

761—601.7(321) REAL ID driver’s license. A person who seeks a driver’s license that is compliant with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37 (“REAL ID driver’s license”), must meet and comply with all lawful requirements for an Iowa driver’s license, and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided to fulfill REAL ID requirements must be verified as required in 6 CFR 37.13. An applicant for a REAL ID driver’s license is subject to a mandatory facial image capture that meets the requirements of 6 CFR 37.11(a). A REAL ID driver’s license may not be issued, reissued, or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued, or renewed by any procedure, in any circumstance, to any person, or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID driver’s license must include all information and markings required by 6 CFR 37.17. Nothing in this rule requires a person to obtain a REAL ID driver’s license.

This rule is intended to implement Iowa Code chapter 321, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 8339B, IAB 12/2/09, effective 12/21/09; ARC 8514B, IAB 2/10/10, effective 3/17/10]

[Filed emergency 6/7/90—published 6/27/90, effective 7/1/90]
[Filed 12/18/91, Notice 11/13/91—published 1/8/92, effective 2/12/92]
[Filed 11/1/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]
[Filed 10/30/96, Notice 9/25/96—published 1/20/96, effective 12/25/96]
[Filed 12/23/97, Notice 12/17/97—published 2/11/98, effective 3/18/98]
[Filed 2/15/02, Notice 12/26/01—published 3/20/02, effective 4/24/02]
[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]
[Filed ARC 7902B (Notice ARC 7721B, IAB 4/22/09), IAB 7/1/09, effective 8/5/09]
[Filed Emergency ARC 8339B, IAB 12/2/09, effective 12/21/09]
[Filed ARC 8514B (Notice ARC 8342B, IAB 12/2/09), IAB 2/10/10, effective 3/17/10]
[Filed ARC 0347C (Notice ARC 0201C, IAB 7/11/12), IAB 10/3/12, effective 11/7/12]
[Filed Emergency ARC 0895C, IAB 8/7/13, effective 7/9/13]
CHAPTER 604
LICENSE EXAMINATION

[Prior to 6/3/87, see Transportation Department] [07.C] rules 13.3 and 13.17

761—604.1(321) Authority and scope.

604.1(1) The department is authorized to determine by examination an applicant’s ability to operate motor vehicles safely upon the highways and to issue all driver’s licenses.

604.1(2) This chapter of rules shall apply to the examination for all driver’s licenses. Information on the additional examination procedures and requirements for a commercial driver’s license or commercial driver’s instruction permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code sections 321.2, 321.3, 321.13, 321.177, and 321.186.

761—604.2(321) Definitions.

“Binocular field of vision” is the sum of the temporal measurements or the sum of the nasal measurements.

“Monocular field of vision” is the sum of the temporal measurement and the nasal measurement for one eye.

“Representative vehicle” is a vehicle which is characteristic of and requires operating skills comparable to those vehicles that may legally be operated under the class of license or endorsement desired.

This rule is intended to implement Iowa Code sections 321.174 and 321.186. [ARC 1991B, IAB 2/8/12, effective 3/14/12]

761—604.3(17A) Information and forms.

604.3(1) Applications, forms, and information about driver’s license examinations are available at any driver’s license examination station. Assistance is also available from the office of driver services at the address in 761—600.2(17A).

604.3(2) The “Iowa Driver Manual” and the “Iowa Motorcycle Operator Manual” are also available from the department.

This rule is intended to implement Iowa Code section 17A.3.

761—604.4 to 604.6 Reserved.

761—604.7(321) Examination.

604.7(1) An examination shall include:

a. A vision screening if the person has not filed a vision report.

b. A knowledge test of Iowa traffic laws and highway signs.

c. A driving test of the person’s ability to operate a motor vehicle.

604.7(2) The examination required for a driver’s license depends upon the class of license requested, applicable endorsements, and the qualifications of the applicant.

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

761—604.8 and 604.9 Reserved.

761—604.10(321) Vision screening.

604.10(1) Requirement. Vision screening or a vision report is required of an applicant for a driver’s license.

604.10(2) Method. At driver’s license examination stations, a vision screening instrument shall be used to screen the applicant’s vision. An applicant who has corrective lenses may be screened with or without the corrective lenses.

604.10(3) Report. A vision report shall be submitted on Form 430032 signed by a licensed vision specialist and shall report the person’s visual acuity level and field of vision as measured within 30 days prior to the date of the application. In lieu of Form 430032, a vision report signed by a licensed vision
specialist on the specialist’s letterhead may be accepted if it contains all the information specified on Form 430032.

604.10(4) Exception for persons renewing electronically. An applicant renewing a driver’s license electronically pursuant to 761—subrule 605.25(7) is not required to complete a vision screen or submit a vision report to complete the renewal. This subrule does not preclude the department from requiring a vision screen or vision report of a person who has renewed a driver’s license electronically when the department has reason to believe that the person is not capable of operating a motor vehicle safely.

This rule is intended to implement Iowa Code sections 321.186, 321.186A and 321.196 as amended by 2013 Iowa Acts, House File 355, section 1.

[ARC 9991B, IAB 2/8/12, effective 3/14/12; ARC 0895C, IAB 8/7/13, effective 7/9/13]

761—604.11(321) Vision standards. The visual acuity and field of vision standards for licensing and the applicable restrictions are as follows.

604.11(1) Visual acuity standards.

a. When the applicant is screened without corrective lenses. If the visual acuity is 20/40 or better with both eyes or with the better eye, no restriction will be imposed. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall be restricted from driving when headlights are required.

b. When the applicant is screened with corrective lenses. If the visual acuity is 20/40 or better with both eyes or with the better eye, the applicant shall be required to wear corrective lenses. If the visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall be required to wear corrective lenses and shall be restricted from driving when headlights are required.

c. Other standards. If the visual acuity in the left eye is less than 20/100, the applicant shall be restricted to driving a vehicle with both left and right outside rearview mirrors. However, if the applicant has a visual acuity of 20/40 in the right eye and less than 20/100 in the left eye without corrective lenses and has corrective lenses that improve the vision in the left eye to better than 20/100, the applicant shall have the option of being restricted to driving with corrective lenses or driving a vehicle with both left and right outside rearview mirrors.

604.11(2) Field of vision standards.

a. If the binocular field of vision is at least 140 degrees, no restriction will be imposed.

b. If the binocular field of vision is less than 140 degrees but at least 110 degrees, or one eye has a monocular field of vision of at least 100 degrees, the applicant shall be restricted to driving a vehicle with both left and right outside rearview mirrors.

This rule is intended to implement Iowa Code sections 321.186, 321.193, and 321.196.

[ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—604.12(321) Vision referrals.

604.12(1) Referral.

a. If an applicant on first screening cannot attain 20/40 but can attain 20/70 with at least one eye, the department shall not issue a license to the applicant. Instead, the department shall advise the applicant to consult a licensed vision specialist.

b. A vision report, pursuant to subrule 604.10(3), shall be required before the department will reconsider licensing.

604.12(2) License.

a. The department shall affix a sticker to the applicant’s license stating: “Renewal or license issuance denied due to vision.”

b. If the applicant’s license is valid for less than 30 days, the department may issue a temporary driving permit with restrictions appropriate to the applicant’s visual acuity level and field of vision. The temporary driving permit is valid for not more than 30 days from the end of the current license validity.

604.12(3) Report. If the vision report recommends a restriction, the department shall issue a restricted license even though it would not be required by departmental standards.
604.12(4) Applicant refusal. If an applicant refuses to consult a licensed vision specialist, the department shall issue or deny the license based on the results achieved on the vision screening.

This rule is intended to implement Iowa Code sections 321.181, 321.186, 321.186A, 321.193 and 321.196.

761—604.13(321) Vision screening results.

604.13(1) Two-year license. An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye shall be issued a two-year license. This restriction may be waived by the department when a vision report pursuant to subrule 604.10(3) certifies that the vision has stabilized and is not expected to deteriorate.

604.13(2) License denied.

a. An applicant who cannot attain a visual acuity of 20/70 with both eyes or with the better eye shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

b. If the applicant’s binocular field of vision is less than 110 degrees, or the monocular field of vision is less than 100 degrees, the applicant shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

604.13(3) Reapplication. An applicant who cannot meet the vision standards in subrule 604.13(2) may reapply when the vision improves and meets the vision standards. If a suspension or denial notice was served, reapplication must be made to the office of driver services at the address in 761—600.2(17A), and not at a driver’s license examination station.

604.13(4) Discretionary issuance.

a. An applicant whose license is restricted under rule 761—604.11(321) or who cannot meet the vision standards in subrule 604.13(2) may submit a written request for review by an informal settlement officer.

b. Based upon consideration of the applicant’s vision screening results or vision report, driving test and driving record, the written recommendation of the applicant’s licensed vision specialist, and traffic conditions in the vicinity of the applicant’s residence, the officer may recommend issuing a license with restrictions suitable to the applicant’s capabilities. However:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/199 with both eyes or with the better eye shall not be licensed.

(3) If an applicant’s binocular field of vision or monocular field of vision is less than 75 degrees, the applicant may be considered for licensing only after recommendation by the medical advisory board.

(4) An applicant who cannot attain a binocular or monocular field of vision of 21 degrees shall not be licensed.

c. The officer’s recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

[ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—604.14 to 604.19 Reserved.

761—604.20(321) Knowledge test.

604.20(1) Written test. A knowledge test is a written test to determine an applicant’s ability to read and understand Iowa traffic laws and the highway signs that regulate, warn, and direct traffic. A test may be revised at any time but each test states the minimum passing score.

604.20(2) Three types of tests. There are three types of knowledge tests: an operator’s test, a chauffeur’s test, and a motorcycle test. The requirement for a license depends upon the class of license desired, applicable endorsements, and the qualifications of the applicant.
604.20(3) Oral test. An applicant who is unable to read or understand a written test may request an oral test. The oral test may be administered by an examiner or by an automated testing device.


This rule is intended to implement Iowa Code section 321.186.

761—604.21(321) Knowledge test requirements and waivers.

604.21(1) Knowledge test requirements. The knowledge test requirements are as follows:

a. Operator’s test. An operator’s knowledge test is required for all classes of driver’s licenses and all types of special driver’s licenses and permits.
b. Motorcycle test. A motorcycle knowledge test is required for all:
   (1) Motorcycle instruction permits.
   (2) Class M driver’s licenses.
   (3) Motorcycle endorsements.
c. Chauffeur’s test. A chauffeur’s knowledge test is required for all:
   (1) Chauffeur’s instruction permits.
   (2) Class D driver’s licenses except those with an endorsement for “passenger vehicle less than 16-passenger design.”

604.21(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

a. The applicant has passed the same type of test for another Iowa driver’s license or an equivalent out-of-state license that is still valid.
b. The applicant has a valid, equivalent driver’s license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.
c. The applicant has a military extension and is renewing the applicant’s Iowa driver’s license within six months following separation from active duty.

This rule is intended to implement Iowa Code sections 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.196 and 321.198.

761—604.22(321) Knowledge test results.

604.22(1) Proof of Passing score. When necessary, the department shall give the applicant a form, valid for 90 days, which certifies that the applicant has passed the knowledge test.

604.22(2) Retesting. An applicant who fails a knowledge test may repeat the test at the discretion of the examiner, but at least two hours shall elapse between tests.

This rule is intended to implement Iowa Code section 321.186.

761—604.23 to 604.29 Reserved.

761—604.30(321) Driving test. A driving test is a demonstration of an applicant’s ability to exercise ordinary and reasonable control in the operation of a motor vehicle under actual traffic conditions. The test is also called a road test, field test, or driving demonstration. A motorcycle skill test is an off-street demonstration of an applicant’s ability to control the motorcycle in a set of standard maneuvers, and a motorcycle driving test is an on-street demonstration.

604.30(1) Vehicle type and safety.

a. For the driving test, the applicant shall provide a representative vehicle as defined in 761—604.2(321).
b. The examiner or other authorized personnel shall visually inspect the vehicle. If a vehicle is illegal or unsafe, or is not a representative vehicle, the examiner shall refuse to administer the test until corrections are made or an acceptable vehicle is provided.

604.30(2) Criteria and route. Form 430024, “Your Driving Test,” explains the criteria for passing the test and shall be given to the applicant before any required test, except a motorcycle skill test. The applicant shall be directed over one of the routes which have been preselected by the examiner to test driving skills and maneuvers.
604.30(3) Test score. The examiner shall use the standard departmental score sheet and shall enter the test score and the licensing decision in the spaces provided. At the end of the test, the examiner shall explain the test score. The test score result is valid for 90 days.

604.30(4) Retesting. If an applicant fails a driving test, the test may be rescheduled at the discretion of the examiner.

This rule is intended to implement Iowa Code sections 321.174 and 321.186.

[ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—604.31(321) Driving test requirements and waivers for noncommercial driver’s licenses.

604.31(1) Driving test requirements. The driving test requirements for noncommercial driver’s licenses are as follows:

a. Instruction permits. A driving test is not required to obtain an instruction permit.

b. Class C driver’s licenses. For a Class C driver’s license other than an instruction permit or a motorized bicycle license, an operator’s driving test in a representative vehicle is required.

c. Class D driver’s licenses. For a Class D driver’s license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule 605.4(2), is required.

d. Class M driver’s licenses and motorcycle endorsements. The driving test for a Class M driver’s license or motorcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street driving test.

   (1) The off-street motorcycle skill test is required. The on-street motorcycle driving test is also required if the applicant does not have another driver’s license that permits unaccompanied driving.

   (2) A motorcycle shall be used for these tests. If a three-wheeled motorcycle is used, the driver’s license shall be restricted: “Not valid for 2-wheel vehicle.”

   e. Motorized bicycle licenses. For a motorized bicycle license, an off-street or on-street driving test may be required. A motorized bicycle shall be used for the test.

604.31(2) Driving test waivers. The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

a. The applicant is applying for the applicant’s first Iowa driver’s license that permits unaccompanied driving following successful completion of the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education for a Class C driver’s license other than motorized bicycle, driver education and motorcycle rider education for a Class M driver’s license or motorcycle endorsement, and motorized bicycle education for a motorized bicycle license. However:

   (1) The department may select dates and require a driving test of applicants whose birth dates fall on the selected dates. The department shall notify the Iowa department of education quarterly of the dates selected.

   (2) If an applicant is under the age of 18, a driving test is required if so requested by the applicant’s parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa driver’s license or endorsement within 14 months after the expiration date.

c. The applicant has passed the same type of driving test for another Iowa driver’s license or endorsement that is still valid or has expired within the past 14 months.

d. The applicant has a military extension and is renewing the applicant’s Iowa driver’s license within six months following separation from active duty.

e. The applicant is applying for a Class C Iowa driver’s license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.

f. The applicant is applying for a Class D Iowa driver’s license and has an equivalent out-of-state license that is valid or has expired within the past year.

g. The applicant is applying for a Class M driver’s license or a motorcycle endorsement and has an equivalent out-of-state Class M driver’s license or motorcycle endorsement that is valid or has expired within the past year.
761—604.32(321) Driving tests requirements. Rescinded IAB 1/8/92, effective 2/12/92.

761—604.33 and 604.34 Reserved.

761—604.35(321) Determination of gross vehicle weight rating. For a vehicle that has no legible manufacturer’s certification label, the applicant may provide documentation of the gross vehicle weight rating, such as a manufacturer’s certificate of origin, a title, a vehicle registration document, or the vehicle identification number information for the vehicle. In the absence of the above documentation, the registered weight of the vehicle shall be presumed to be the gross vehicle weight rating.

This rule is intended to implement Iowa Code section 321.1.

761—604.36 to 604.39 Reserved.

761—604.40(321) Failure to pass examination.

604.40(1) An applicant who fails to pass a required examination or reexamination shall not be licensed.

a. If the applicant does not have a valid Iowa license, the department shall deny the applicant a license.

b. If the applicant has a valid Iowa license, the department shall suspend the license for incapability. However, if the applicant’s license is valid for less than 30 days, the department shall deny further licensing. The department shall serve a notice of suspension or denial.

c. See 761—615.4(321) for further information on denials and 761—615.14(321) for further information on suspensions for incapability.

d. An applicant may contest a denial or suspension in accordance with 761—615.38(321).

604.40(2) Limitations on the hearing and appeal process.

a. After a suspension or denial for failure to pass a required knowledge or driving test, a person who contests the suspension or denial shall be deemed to have exhausted the person’s administrative remedies after three unsuccessful attempts to pass the required test.

b. After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the office of driver services at the address in rule 761—600.2(17A).

c. Notwithstanding paragraphs “a” and “b” of this subrule, no testing shall occur if the director determines that it is unsafe to allow testing.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177, 321.180A and 321.210.

761—604.41 to 604.44 Reserved.

761—604.45(321) Reinstatement. A person whose license has been suspended or denied for failure to pass a required examination or reexamination shall meet the vision standards for licensing, pass the required knowledge examination(s), and pass the required driving test(s) before an Iowa license will be issued.

This rule is intended to implement Iowa Code sections 321.177 and 321.186.

761—604.46 to 604.49 Reserved.
761—604.50(321) Special reexaminations. The department may require a special reexamination consisting of a vision screening, knowledge test and driving test of any licensee.

604.50(1) The department may require a special reexamination when a licensee has been involved in a fatal motor vehicle accident and the investigating officer’s report of the accident indicates the licensee contributed to the accident.

604.50(2) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officer’s report of each accident lists one of the following “Driver/Vehicle Related Contributing Circumstances” for the licensee:

a. Ran traffic signal.
b. Ran stop sign.
c. Passing, interfered with other vehicle.
d. Left of center, not passing.
e. Failure to yield right-of-way at uncontrolled intersection.
f. Failure to yield right-of-way from stop sign.
g. Failure to yield right-of-way from yield sign.
h. Failure to yield right-of-way making left turn.
i. Failure to yield right-of-way to pedestrian.
j. Failure to have control.

604.50(3) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officers’ reports for both accidents list a driver condition for the licensee of “apparently asleep.”

604.50(4) The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer’s or the person’s own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. The licensee made a left turn that resulted in the accident.
b. The licensee failed to yield the right-of-way at a stop sign.
c. The licensee failed to yield the right-of-way at a yield sign.
d. The licensee failed to yield the right-of-way at an uncontrolled intersection.
e. The licensee failed to yield the right-of-way at a traffic control signal.
f. The licensee’s vision may be a contributing factor to a nighttime accident.
g. The licensee has a physical disability-related license restriction other than “corrective lenses” and the accident involved one of the circumstances listed in paragraphs “a” to “f” above.

604.50(5) The department may require a special reexamination when recommended by a peace officer, a court, or a properly documented citizen’s request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. Loss of consciousness.
b. Confusion, disorientation or dementia.
c. Inability to maintain a vehicle in the proper lane.
d. Repeatedly ignoring traffic control devices in a nonchase setting.
e. Inability to interact safely with other vehicles.
f. Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

[Filed 7/1/75]
[Filed 12/28/76, Notice 11/3/76—published 1/12/77, effective 2/16/77]
[Filed 8/25/80, Notice 7/9/80—published 9/17/80, effective 10/22/80]
[Filed 1/20/88, Notice 12/2/87—published 2/10/88, effective 3/16/88]
[Filed emergency 11/30/89—published 12/27/89, effective 12/1/89]
[Filed emergency 6/7/90—published 6/27/90, effective 7/1/90]
[Filed 12/18/91, Notice 11/13/91—published 1/8/92, effective 2/12/92]
Effective date of 604.11(2) and 604.13(2) “b” delayed until adjournment of the 1988 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its June 1987 meeting.
CHAPTER 605
LICENSE ISSUANCE

761—605.1(321) Scope. This chapter of rules applies to the issuance of all Iowa driver’s licenses. Additional information on the issuance of a commercial driver’s license or a commercial driver’s instruction permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code section 321.174.

761—605.2(321) Contents of license. In addition to the information specified in Iowa Code subsection 321.189(2), the following information shall be shown on a driver’s license.

605.2(1) Name. The licensee’s full legal name shall be listed as established according to 761—subrule 601.5(1) and 761—subrule 601.5(5) and shall conform to the requirements of 761—subrule 601.1(2).

605.2(2) Current residential address. The licensee’s current residential address shall be listed as established according to the requirements of 761—subrule 601.5(3).

605.2(3) Physical description. The physical description of the licensee on the face of the driver’s license shall include:

a. The licensee’s eye color using these abbreviations: Blk-black, Blu-blue, Bro-brown, Gry-gray, Grn-green, Haz-hazel, and Pnk-pink.

b. The licensee’s height in inches.

605.2(4) Date of birth. The licensee’s date of birth shall be listed as established according to 761—subrule 601.5(1) and 761—subrule 601.5(6).

605.2(5) Sex. The licensee’s sex designation shall be listed as established according to the requirements of 761—subrule 601.5(7).

605.2(6) REAL ID markings.

a. A driver’s license that is issued as a REAL ID license as defined in 761—601.7(321) shall include a security marking as required by 6 CFR 37.17(n).

b. Beginning January 15, 2013, a driver’s license that is not issued as a REAL ID license as defined in 761—601.7(321) may be marked as required by 6 CFR 37.71 and any subsequent guidance issued by the U.S. Department of Homeland Security.

c. A driver’s license issued to a foreign national with temporary lawful status shall include the following statement on the face of the license: “limited term.”

This rule is intended to implement Iowa Code section 321.189, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 0347C, IAB 10/3/12, effective 11/7/12]

761—605.3(321) License class. The driver’s license class shall be coded on the face of the driver’s license using these codes:

Class A—commercial driver’s license
Class B—commercial driver’s license
Class C—commercial driver’s license
Class C—noncommercial driver’s license
Class D—noncommercial driver’s license, chauffeur
Class M—noncommercial driver’s license, motorcycle only

This rule is intended to implement Iowa Code section 321.189.

761—605.4(321) Endorsements. The endorsements shall be coded on the face of the driver’s license and explained in text on the back of the driver’s license.

605.4(1) For a commercial driver’s license. The following endorsements may be added to a Class A, B or C commercial driver’s license using these letter codes:

H—Hazardous material
P—Passenger
N—Tank
For a Class D driver’s license (chauffeur). The following endorsements may be added to a Class D driver’s license using these number codes:

1—Truck-tractor semitrailer combination
2—Vehicle with 16,001 pounds gross vehicle weight rating or more. Not valid for truck-tractor semitrailer combination
3—Passenger vehicle less than 16-passenger design

Motorcycle endorsement. A motorcycle endorsement may be added to any driver’s license that permits unaccompanied driving, other than a Class M driver’s license or a motorized bicycle license, using the following letter code:

L—Motorcycle

This rule is intended to implement Iowa Code section 321.189.

Restrictions shall be coded on the face of the driver’s license and explained in text on the back of the driver’s license.

For all licenses. The following restrictions may apply to any driver’s license:

B—Corrective lenses required
C—Mechanical aid (as detailed in the restriction on the back of the card)
D—Prosthetic aid (as detailed in the restriction on the back of the card)
E—Automatic transmission
F—Left and right outside rearview mirrors
G—No driving when headlights required
H—Temporary restricted license or permit (work permit)
I—Ignition interlock required
J—Restrictions on the back of card
S—SR required (proof of financial responsibility for the future)
T—Medical report required at renewal
U—Not valid for 2-wheel vehicle
W—Restricted commercial driver’s license (CDL)
Y—Intermediate license

For a noncommercial driver’s license. The following restrictions apply only to a noncommercial driver’s license:

P—Special instruction permit
Q—No interstate or freeway driving

For a commercial driver’s license. The following restrictions apply only to a commercial driver’s license:

K—Commercial driver’s license intrastate only
L—Vehicle without air brakes
M—Except Class A bus
N—Except Class A and Class B bus
O—Except tractor-trailer
V—Medical Variance document required

Special licenses. A numbered restriction will designate a special driver’s license using these codes:

1—Motorcycle instruction permit
2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)
3—Commercial driver’s instruction permit
4—Chauffeur’s instruction permit
5—Motorized bicycle license
6—Minor’s restricted license
7—Minor’s school license

605.5(5) Additional information.

a. Reexamination or report. The department may issue a restriction requiring a person to reappear at a specified time for examination. The department may require a medical report to be submitted. The department shall send Form 430029 as a reminder to appear.

b. Loss of consciousness or voluntary control.

(1) If a person is licensed pursuant to 761—subrule 600.4(4), the department shall issue the first driver’s license with a restriction stating: “Medical report to be furnished at the end of six months.”

(2) If this medical report shows that the person has been free of an episode of loss of consciousness or voluntary control since the previous medical report and the report recommends licensing, the department shall issue a duplicate driver’s license with a restriction stating: “Medical report required at renewal.” At each renewal accompanied by a favorable medical report, the department shall issue a two-year driver’s license with the same restriction.

(3) If the latest medical report indicates the person experienced only a single nonrecurring episode, the cause has been identified, and the qualified medical professional is not treating or has not treated the person for the episode and believes it is unlikely to recur, the department may waive the medical report requirement upon receipt of a favorable recommendation from a qualified medical professional.

(4) The department may remove the medical report requirement and issue a full-term driver’s license if recommended by a qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control and has not been prescribed medications to control such episodes during the 24-month period immediately preceding application for a license.

(5) The department may remove the medical report requirement and issue a full-term driver’s license if recommended by a qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control during the 10-year period immediately preceding application for a license.

c. Financial responsibility. When a person is required under Iowa Code chapter 321A to have future proof of financial responsibility on file, the license restriction will read: “SR required.” The license shall be valid only for the operation of motor vehicles covered by the class of license issued and by the proof of financial responsibility filed.

d. Vision restriction. Restrictions relating to vision are addressed in 761—Chapter 604.


[ARC 9991B, IAB 2/8/12, effective 3/14/12; ARC 0661C, IAB 4/3/13, effective 5/8/13]

761—605.6(321) License term for temporary foreign national. A driver’s license issued to a person who is a foreign national with temporary lawful status shall be issued only for the length of time the person is authorized to be present as verified by the department, not to exceed two years. However, if the person’s lawful status as verified by the department has no expiration date, the driver’s license shall be issued for a period of no longer than one year.

This rule is intended to implement Iowa Code section 321.196, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 0347C, IAB 10/3/12, effective 11/7/12]


761—605.8 Reserved.

761—605.9(321) Fees for driver’s licenses. Fees for driver’s licenses are specified in Iowa Code section 321.191. A license fee may be paid by cash, check, credit card, debit card or money order. If payment is by check, the following requirements apply:

605.9(1) The check shall be for the exact amount of the fee and shall be payable to: Treasurer, State of Iowa. An exception may be made when a traveler’s check is presented.
605.9(2) One check may be used to pay fees for several persons, such as members of a family or employees of a business firm. One check may pay all fees involved, such as the license fee and the reinstatement fee.

This rule is intended to implement Iowa Code section 321.191.

[ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—605.10(321) Waiver or refund of license fees. Rescinded IAB 2/8/12, effective 3/14/12.

761—605.11(321) Duplicate license.

605.11(1) Lost, stolen or destroyed license. To replace a valid license that is lost, stolen or destroyed, the licensee shall submit Form 430052 and shall comply with the requirements of 761—601.5(321). The replacement fee is $3.

605.11(2) Voluntary replacement. The department shall issue a duplicate of a valid license to an eligible licensee if the license is surrendered to the department and the $1 voluntary replacement fee is paid. Voluntary replacement includes but is not limited to:

a. Replacement of a damaged license.
b. Replacement to change the current residential address on a license. The licensee shall comply with the requirements of 761—subrule 601.5(3) to establish a change of current residential address.
c. Replacement to change the name on a license. The licensee shall comply with the requirements of 761—subrule 601.5(5) to establish a name change.
d. Replacement to change the date of birth on a license. The licensee shall comply with the requirements of 761—subrule 601.5(6) to establish a change of date of birth.
e. Replacement to change the sex designation on a license. The licensee shall comply with the requirements of 761—subrule 601.5(7) to establish a change of sex designation.
f. Issuance of a license without the words “under 21” to a licensee who is 21 years of age or older.
g. Issuance of a license without the words “under 18” to a licensee who is 18 years of age or older.

(If the licensee is under 21 years of age, the words “under 21” will replace the words “under 18.”)
h. Issuance of a noncommercial driver’s license to an eligible person who has been disqualified from operating a commercial motor vehicle.
i. Replacement of a valid license before its expiration date to obtain a license that may be accepted for federal identification purposes under 6 CFR Part 37 (a REAL ID license). The licensee shall comply with the requirements of 761—601.5(321) to obtain a REAL ID license.

This rule is intended to implement Iowa Code sections 321.189, 321.195 and 321.208, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 8347C, IAB 10/3/12, effective 11/7/12]

761—605.12(321) Address changes.

605.12(1) A licensee shall notify the department of a change in the licensee’s mailing address within 30 days of the change. Notice shall be given by:

a. Submitting the address change in writing to the office of driver services, or
b. Appearing in person to change the mailing address at any driver’s license examination station.

605.12(2) Parents or legal guardians may provide written notice of a mailing address change on behalf of their minor children.

605.12(3) The department may use U.S. Postal Service address information to update its address records.

This rule is intended to implement Iowa Code sections 321.182 and 321.184.

761—605.13 and 605.14 Reserved.

761—605.15(321) License extension.

605.15(1) Six-month extension. An Iowa resident may apply for a six-month extension of a license if the resident:

a. Has a valid license,
b. Is eligible for further licensing, and

c. Is temporarily absent from Iowa or is temporarily incapacitated at the time for renewal.

605.15(2) Procedure. The licensee shall apply for an extension by submitting Form 430027 to the department. The form may be obtained from and submitted to a driver’s license examination station. The licensee may also apply by letter to the address in 761—600.2(17A).

a. A six-month extension shall be added to the expiration date on the license. When the licensee appears to renew the license, the expiration date of the renewed license will be computed from the expiration date of the original license, notwithstanding the extension.

b. The department shall allow only two six-month extensions.

This rule is intended to implement Iowa Code section 321.196.

761—605.16(321) Military extension.

605.16(1) Form 430028. A person who qualifies for a military extension of a valid license should request Form 430028 from the department and carry it with the license for verification to peace officers. Form 430028 explains the provisions of Iowa Code section 321.198 regarding military extensions.

605.16(2) Request for retention of record. A person with a military extension may request that the department retain the record of license issuance for the duration of the extension or reenter the record if it has been removed from department records. The request may be made by letter or by using Form 430081. The letter or Form 430081 shall be signed by the person’s commanding officer to verify the military service and shall be submitted to the department at the address in 761—600.2(17A).

605.16(3) Renewal of license after military extension. When an applicant renews a license after a military extension, the department may require the applicant to provide documentation of both the military service and the date of separation from military service.

605.16(4) Reinstatement after sanction. A person with a military extension whose license has been canceled, suspended or revoked shall comply with the requirements of 761—615.40(321) to reinstate the license.

This rule is intended to implement Iowa Code section 321.198.

761—605.17 to 605.19 Reserved.

761—605.20(321) Fee adjustment for upgrading license. The fee for upgrading a driver’s license shall be computed on a full-year basis. The fee is charged for each year or part of a year between the date of the change and the expiration date on the license.

605.20(1) The fee to upgrade a driver’s license from one class to another is determined by computing the difference between the current license fee and the new license fee as follows:

a. Converting noncommercial Class C to Class D—$4 per year of new license validity.

b. Converting Class M to Class D with a motorcycle endorsement—$4 per year of new license validity.

c. Converting Class M to noncommercial Class C with a motorcycle endorsement—$1 one-time fee.

605.20(2) The fee to add a privilege to a driver’s license is computed per year of new license validity as follows:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noncommercial Class C</td>
<td>$4 per year</td>
</tr>
<tr>
<td>(full privileges from a restricted Class C)</td>
<td></td>
</tr>
<tr>
<td>Motorized bicycle</td>
<td>$4 per year</td>
</tr>
<tr>
<td>Minor’s restricted license</td>
<td>$4 per year</td>
</tr>
<tr>
<td>Minor’s school license</td>
<td>$4 per year</td>
</tr>
<tr>
<td>Motorcycle instruction permit</td>
<td>$1 per year</td>
</tr>
<tr>
<td>Motorcycle endorsement</td>
<td>$1 per year</td>
</tr>
</tbody>
</table>

This rule is intended to implement Iowa Code sections 321.189 and 321.191.
761—605.21 to 605.24  Reserved.

761—605.25(321) License renewal.

605.25(1) A licensee who wishes to renew a driver’s license shall apply to the department and, if required, pass the appropriate examination.

605.25(2) A valid license may be renewed 30 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier.

605.25(3) A valid license may be renewed within 60 days after the expiration date, unless otherwise specified.

605.25(4) If the licensee’s current residential address, name, date of birth, or sex designation has changed since the previous license was issued, the licensee shall comply with the following:

a. Current residential address. The licensee shall comply with the requirements of 761—subrule 601.5(3) to establish a change of current residential address.

b. Name. The licensee shall comply with the requirements of 761—subrule 601.5(5) to establish a name change.

c. Date of birth. The licensee shall comply with the requirements of 761—subrule 601.5(6) to establish a change of date of birth.

d. Sex designation. The licensee shall comply with the requirements of 761—subrule 601.5(7) to establish a change of sex designation.

605.25(5) A licensee who has not previously been issued a license that may be accepted for federal identification purposes under 6 CFR Part 37 (a REAL ID license) and wishes to obtain a REAL ID license upon renewal must comply with the requirements of 761—601.5(321) to obtain a REAL ID license upon renewal.

605.25(6) A licensee who is a foreign national with temporary lawful status must provide documentation of lawful status as required by 761—subrule 601.5(4) at each renewal.

605.25(7) The department may determine means or methods for electronic renewal of a driver’s license.

a. An applicant who meets the following criteria may apply for electronic renewal:

(1) The applicant must be at least 18 years of age but not yet 71 years of age.

(2) The applicant completed a satisfactory vision screen or submitted a satisfactory vision report under 761—subrules 604.10(1) to 604.10(3) and updated the applicant’s photo at the applicant’s last issuance or renewal.

(3) The applicant’s driver’s license has not been expired for more than one year.

(4) The department’s records show the applicant is a U.S. citizen.

(5) The applicant’s driver’s license is not marked “valid without photo.”

(6) The applicant is not seeking to change any of the following information as it appears on the applicant’s driver’s license:

1. Name.

2. Date of birth.

3. Sex.

(7) The applicant’s driver’s license is a Class C noncommercial driver’s license, a Class D noncommercial driver’s license (chauffeur), or Class M noncommercial driver’s license (motorcycle) that is not a special license or permit, a temporary restricted license, or a two-year license.

(8) The applicant is not subject to a pending request for reexamination.

(9) The applicant does not wish to change any of the following:

1. Class of license.

2. License endorsements.

3. License restrictions.

(10) The applicant is not subject to any of the following restrictions:

G—No driving when headlights required

J—Restrictions on the back of card

T—Medical report required at renewal
P—Special instruction permit
Q—No interstate or freeway driving
R—Maximum speed of 35 mph

b. The department reserves the right to deny electronic renewal and to require the applicant to personally apply for renewal at a driver’s license examination station if it appears to the department that the applicant may have a physical or mental condition that may impair the applicant’s ability to safely operate a motor vehicle, even if the applicant otherwise meets the criteria in 605.25(7)”a.”

c. An applicant who has not previously been issued a driver’s license that is compliant with the REAL ID Act of 2005, 49 U.S.C. Section 30301 note, as further defined in 6 CFR Part 37 (a REAL ID license) may not request a REAL ID driver’s license by electronic renewal.

This rule is intended to implement Iowa Code sections 321.186 and 321.196 as amended by 2013 Iowa Acts, House File 355, section 1, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

[ARC 0347C, IAB 10/3/12, effective 11/7/12; ARC 0895C, IAB 8/7/13, effective 7/9/13]

761—605.26(321) License renewal by mail. Rescinded IAB 3/20/02, effective 4/24/02.

[Filed emergency 6/7/90—published 6/27/90, effective 7/1/90]
[Filed emergency 10/24/90—published 11/14/90, effective 10/24/90]
[Filed 5/9/91, Notices 11/14/90, 2/20/91—published 5/29/91, effective 7/3/91]
[Filed 12/18/91, Notice 11/13/91—published 1/8/92, effective 2/12/92]
[Filed emergency 1/10/94—published 2/2/94, effective 1/10/94]
[Filed 10/30/96, Notice 9/25/96—published 11/20/96, effective 12/25/96]
[Filed 1/21/98, Notice 12/17/97—published 2/11/98, effective 3/18/98]
[Filed emergency 7/20/00 after Notice 6/14/00—published 8/9/00, effective 7/24/00]
[Filed 2/15/02, Notice 12/26/01—published 3/20/02, effective 4/24/02]
[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]
[Filed emergency 3/21/03—published 4/16/03, effective 3/21/03]
[Filed emergency 6/15/05 after Notice 5/11/05—published 7/6/05, effective 7/1/05]
[Filed 6/14/06, Notice 4/12/06—published 7/5/06, effective 8/9/06]
[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]
[Filed ARC 7902B (Notice ARC 7721B, IAB 4/22/09), IAB 7/1/09, effective 8/5/09]
[Filed ARC 9991B (Notice ARC 9874B, IAB 11/30/11), IAB 2/8/12, effective 3/14/12]
[Filed ARC 0347C (Notice ARC 0201C, IAB 7/11/12), IAB 10/3/12, effective 11/7/12]
[Filed ARC 0661C (Notice ARC 0571C, IAB 1/23/13), IAB 4/3/13, effective 5/8/13]
[Filed Emergency ARC 0895C, IAB 8/7/13, effective 7/9/13]

1 Effective date of December 29, 1993, for 761—605.26(2)”a” and “d.” delayed 70 days by the Administrative Rules Review Committee at its meeting held December 15, 1993; delay lifted by this Committee on January 5, 1994, effective January 6, 1994.
CHAPTER 630
NONOPERATOR’S IDENTIFICATION

[Prior to 6/3/87, see Transportation Department[820]—(07C)Ch 12]

761—630.1(321) General information.

630.1(1) The department shall issue a nonoperator’s identification card only to an Iowa resident who does not have a driver’s license. However, a card may be issued to a person holding a temporary permit under Iowa Code section 321.181.

630.1(2) Information concerning the nonoperator’s identification card is available at any driver’s license examination station, or at the address in 761—600.2(17A).

761—630.2(321) Application and issuance.

630.2(1) An applicant for a nonoperator’s identification card shall complete and sign an application form at a driver’s license examination station. The signature shall be without qualification and shall contain only the applicant’s usual signature without any other titles, characters or symbols.

630.2(2) The applicant shall present proof of identity, date of birth, social security number, Iowa residency, current residential address and lawful status as required by rule 761—601.5(321). Submission of parental consent is also required in accordance with rule 761—601.6(321).

630.2(3) The nonoperator’s identification card shall be coded for identification only, as explained on the reverse side of the card. The county number shall indicate the county of residence. The card shall expire five years from the date of issue if the applicant is under the age of 70. A card issued to a person who is a foreign national with temporary lawful status shall be issued only for the length of time the person is authorized to be present in the United States as verified by the department, not to exceed two years. However, if the person’s lawful status as verified by the department has no expiration date, the card shall be issued for a period of no longer than one year.

630.2(4) Upon the request of the cardholder, the department shall indicate on the nonoperator’s identification card the presence of a medical condition, that the cardholder is a donor under the uniform anatomical gift law, or that the cardholder has in effect a medical advance directive.

630.2(5) The issuance fee is $5. However, no issuance fee shall be charged for a person whose license has been suspended for incapability pursuant to rule 761—615.14(321) or who has been denied further licensing in lieu of a suspension for incapability pursuant to rule 761—615.4(321).

630.2(6) An applicant who is a foreign national with temporary lawful status must provide documentation of lawful status as required by 761—subrule 601.5(4) at each renewal.

630.2(7) A person who seeks a nonoperator’s identification card that is compliant with the REAL ID Act of 2005, 49 U.S.C. § 30301 note, as further defined in 6 CFR Part 37 (“REAL ID nonoperator’s identification card”), must meet and comply with all lawful requirements for an Iowa nonoperator’s identification card, and must also meet and comply with all application and documentation requirements set forth at 6 CFR Part 37, including but not limited to documentation of identity, date of birth, social security number, address of principal residence, and evidence of lawful status in the United States. Documents and information provided to fulfill REAL ID requirements must be verified as required in 6 CFR 37.13. An applicant for a REAL ID nonoperator’s identification card is subject to a mandatory facial image capture that meets the requirements of 6 CFR 37.11(a). A REAL ID nonoperator’s identification card may not be issued, reissued, or renewed except as permitted in 6 CFR Part 37 and may not be issued, reissued, or renewed by any procedure, in any circumstance, to any person, or for any term prohibited under 6 CFR Part 37. The information on the front of any REAL ID nonoperator’s identification card must include all information and markings required by 6 CFR 37.17. Nothing in this subrule requires a person to obtain a REAL ID nonoperator’s identification card.

630.2(8) A nonoperator’s identification card issued to a foreign national with temporary lawful status shall include the following statement on the face of the card: “limited term.”

630.2(9) Beginning January 15, 2013, a nonoperator’s identification card that is not issued as a REAL ID nonoperator’s identification card as defined in subrule 630.2(7) may be marked as required by 6 CFR 37.71 and any subsequent guidance issued by the U.S. Department of Homeland Security.
630.2(10) The department may determine means or methods for electronic renewal of a nonoperator’s identification card.
   a. An applicant who meets the following criteria may apply for electronic renewal:
      (1) The applicant must be at least 18 years old.
      (2) The applicant updated the applicant’s photo at the applicant’s last issuance or renewal.
      (3) The applicant’s nonoperator’s identification card has not been expired for more than one year.
      (4) The department’s records show the applicant is a U.S. citizen.
      (5) The applicant’s nonoperator’s identification card is not marked “valid without photo.”
      (6) The applicant is not seeking to change any of the following as it appears on the applicant’s nonoperator’s identification card:
         1. Name.
         2. Date of birth.
         3. Sex.
   b. An applicant who has not previously been issued a REAL ID nonoperator’s identification card may not request a REAL ID nonoperator’s identification card by electronic renewal.
630.2(11) An applicant for a nonoperator’s identification card shall surrender all other driver’s licenses and nonoperator’s identification cards, other than a temporary permit held under Iowa Code section 321.181. This includes any driver’s licenses or nonoperator’s identification cards issued by jurisdictions other than Iowa. An applicant who renews a nonoperator’s identification card electronically pursuant to 630.2(10) shall destroy the previous nonoperator’s identification card upon receipt of a renewed nonoperator’s identification card.

761—630.3(321) Duplicate card.

630.3(1) Lost, stolen or destroyed card. To replace a nonoperator’s identification card that is lost, stolen or destroyed, the cardholder shall submit Form 430052 and shall comply with the requirements of 761—601.5(321). The replacement fee is $3.

630.3(2) Voluntary replacement. To voluntarily replace a nonoperator’s identification card, the cardholder shall surrender to the department the card to be replaced. The reasons a card may be voluntarily replaced and any additional supporting documentation required are the same as those listed in 761—paragraphs 605.11(2) “a” to “i.” The fee for voluntary replacement is $1.

761—630.4(321) Cancellation. The department shall cancel a nonoperator’s identification card upon receipt of evidence that the person was not entitled or is no longer entitled to a card, failed to give correct information, committed fraud in applying or used the card unlawfully.

[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]
[Filed Emergency ARC 8339B, IAB 12/2/09, effective 12/21/09]
[Filed ARC 8514B (Notice ARC 8342B, IAB 12/2/09), IAB 2/10/10, effective 3/17/10]
[Filed ARC 9991B (Notice ARC 9874B, IAB 11/30/11), IAB 2/8/12, effective 3/14/12]
[Filed ARC 0347C (Notice ARC 0201C, IAB 7/11/12), IAB 10/3/12, effective 11/7/12]
[Filed Emergency ARC 0895C, IAB 8/7/13, effective 7/9/13]
CHAPTER 10
GENERAL INDUSTRY SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 10]

875—10.1(88) Definitions. As used in these rules, unless the context clearly requires otherwise:

“Part” means 875—Chapter 10, Iowa Administrative Code.

“Standard” means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

875—10.2(88) Applicability of standards.

10.2(1) None of the standards in this chapter shall apply to working conditions of employees with respect to which federal agencies other than the United States Department of Labor, exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

10.2(2) If a particular standard is specifically applicable to a condition, practice, means, method, operation, or process, it shall prevail over any different general standard which might otherwise be applicable to the same condition, practice, means, method, operation, or process.

10.2(3) However, any standard shall apply according to its terms to any employment and place of employment in any industry, even though particular standards are also prescribed for the industry, as in 1910.12, 1910.261, 1910.262, 1910.263, 1910.264, 1910.265, 1910.266, 1910.267, and 1910.268 of 29 CFR 1910, to the extent that none of such particular standards applies.

10.2(4) In the event a standard protects on its face a class of persons larger than employees, the standard shall be applicable under this part only to employees and their employment and places of employment.

10.2(5) An employer who is in compliance with any standard in this part shall be deemed to be in compliance with the requirement of Iowa Code section 88.4, but only to the extent of the condition, practice, means, method, operation or process covered by the standard.

875—10.3(88) Incorporation by reference. The standards of agencies of the U.S. Government, and organizations which are not agencies of the U.S. Government which are incorporated by reference in this chapter have the same force and effect as other standards in this chapter. Only mandatory provisions (i.e., provisions containing the word “shall” or other mandatory language) of standards incorporated by reference are adopted under the Act.

875—10.4(88) Exception for hexavalent chromium exposure in metal and surface finishing job shops. Prior to December 31, 2008, for employers that comply with the requirements of this rule, the labor commissioner shall enforce respiratory protection provisions only with respect to employees who fall into one of the six categories outlined in Paragraph 4, Appendix A, 29 CFR 1910.1026, except that the phrase “Exhibit B to this Agreement” shall refer to Exhibit B, Appendix A, 29 CFR 1910.1026. This exception is limited to the narrow circumstances outlined below and shall expire on May 31, 2010.

10.4(1) Eligibility. An employer’s facility is eligible for this exception if the employer is a member of the Surface Finishing Industry Council or the facility is a surface-finishing or metal-finishing job shop that sells plating or anodizing services to other companies.

10.4(2) Participation. To be covered by this exception, eligible employers must complete and submit a Declaration of Participation via mail to the Labor Commissioner, 1000 East Grand Avenue, Des Moines, Iowa 50319, or via facsimile to (515)281-7995. Declarations of Participation must be postmarked or received on or before April 7, 2007. Each declaration shall apply only to one facility. Declaration of Participation forms are available at http://www.iowaworkforce.org/labor/iosh/index.html or by calling (515)242-5870.

10.4(3) Applicability. This exception applies only to surface- and metal-finishing operations within covered facilities.
10.4(4) Feasible engineering controls. Participating employers must implement feasible engineering controls necessary to reduce hexavalent chromium levels at their facilities to or below five micrograms per cubic meter of air calculated as an eight-hour, time-weighted average by December 31, 2008. In fulfilling this obligation, participating employers may select from the engineering and work practice controls listed in Exhibit A, Appendix A, 29 CFR 1910.1026, or may adopt other controls.

10.4(5) Employee training. Participating employers shall train their employees in accordance with the provisions of 29 CFR 1910.1026(l)(2). Using language the employees can understand, participating employers will also train their employees on the provisions of this exception no later than June 7, 2007.

10.4(6) Compliance and monitoring. Participating employers shall comply with the requirements set forth in Paragraphs 3 and 4, Appendix A, 29 CFR 1910.1026, except that as used in Appendix A:

a. The acronym “OSHA” shall refer to the labor commissioner;

b. The word “Company” shall refer to employers participating in this exception;

c. The word “Agreement” shall refer to this rule; and

d. The phrase “Exhibit B to this Agreement” shall refer to Exhibit B, Appendix A, 29 CFR 1910.1026.

875—10.5 and 10.6 Reserved.


875—10.8 to 10.11 Reserved.

875—10.12(88) Construction work.

10.12(1) Standards. The standards prescribed in 875—Chapter 26 are adopted as occupational safety and health standards and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in construction work. Each employer shall protect the employment and places of employment of each employee engaged in construction work by complying with the provisions of 875—Chapter 26.

10.12(2) Definition. For the purpose of this rule, “construction work” means work for construction, alteration, or repair including painting and redecorating, and where applicable, the erection of new electrical transmission and distribution lines and equipment, and the alteration, conversion, and improvement of the existing transmission and distribution lines and equipment. This incorporation by reference of 875—Chapter 26 (Part 1926) is not intended to include references to interpretative rules having relevance to the application of the construction safety Act, but having no relevance to the application of Iowa Code chapter 88.

875—10.13 to 10.18 Reserved.

875—10.19(88) Special provisions for air contaminants.

10.19(1) Asbestos, tremolite, anthophyllite, and actinolite dust. Reserved.

10.19(2) Vinyl chloride. Rule 1910.1017 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to vinyl chloride in every employment and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to vinyl chloride which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(3) Acrylonitrile. Rule 1910.1045 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to acrylonitrile in every employment and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to acrylonitrile which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(4) Inorganic arsenic. Rule 1910.1018 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to inorganic arsenic in every employment
and place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to inorganic arsenic which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(5) Rescinded, effective 6/10/87.


10.19(8) Benzene. Rule 1910.1028 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to benzene in every place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to benzene which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(9) Formaldehyde. Rule 1910.1048 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to formaldehyde in every place of employment covered by 875—10.12(88), in lieu of any different standard on exposure to formaldehyde which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

10.19(10) Methylene chloride. Rule 1910.1052 of the federal rules as adopted by reference in 875—10.20(88) shall apply to the exposure of every employee to methylene chloride in every employment and place of employment covered by 875—10.12(88) in lieu of any different standard on exposure to methylene chloride which would otherwise be applicable by virtue of any rule adopted in 875—Chapter 26.

875—10.20(88) Adoption by reference. The rules beginning at 1910.20 and continuing through 1910, as adopted by the United States Secretary of Labor shall be the rules for implementing Iowa Code chapter 88. This rule adopts the Federal Occupational Safety and Health Standards of 29 CFR, Chapter XVII, Part 1910 as published at 37 Fed. Reg. 22102 to 22324 (October 18, 1972) and as amended at:

38 Fed. Reg. 3599 (February 8, 1973)
38 Fed. Reg. 14373 (June 1, 1973)
38 Fed. Reg. 16223 (June 21, 1973)
38 Fed. Reg. 19030 (July 17, 1973)
38 Fed. Reg. 27048 (September 28, 1973)
38 Fed. Reg. 28035 (October 11, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 6110 (February 19, 1974)
39 Fed. Reg. 19468 (June 3, 1974)
39 Fed. Reg. 41846 (December 3, 1974)
39 Fed. Reg. 41848 (December 3, 1974)
40 Fed. Reg. 13439 (March 26, 1975)
40 Fed. Reg. 23743 (June 2, 1975)
40 Fed. Reg. 24522 (June 9, 1975)
40 Fed. Reg. 27369 (June 27, 1975)
40 Fed. Reg. 31598 (July 28, 1975)
41 Fed. Reg. 46784 (October 22, 1976)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 3304 (January 18, 1977)
42 Fed. Reg. 45540 (September 9, 1977)
42 Fed. Reg. 46544 (September 9, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 11527 (March 17, 1978)
43 Fed. Reg. 27394 (June 23, 1978)
43 Fed. Reg. 28436 (October 22, 1978)
43 Fed. Reg. 28472 (June 30, 1978)
43 Fed. Reg. 28473 (June 30, 1978)
43 Fed. Reg. 49744 (October 24, 1978)
43 Fed. Reg. 56893 (December 5, 1978)
43 Fed. Reg. 57602 (December 8, 1978)
44 Fed. Reg. 46784 (October 22, 1976)
44 Fed. Reg. 55703 (December 21, 1976)
44 Fed. Reg. 2956 (January 14, 1977)
44 Fed. Reg. 3304 (January 18, 1977)
44 Fed. Reg. 45540 (September 9, 1977)
44 Fed. Reg. 46544 (September 9, 1977)
44 Fed. Reg. 37668 (July 22, 1977)
45 Fed. Reg. 28436 (September 9, 1977)
45 Fed. Reg. 28472 (June 30, 1978)
45 Fed. Reg. 28473 (June 30, 1978)
45 Fed. Reg. 49744 (October 24, 1978)
45 Fed. Reg. 56893 (December 5, 1978)
45 Fed. Reg. 57602 (December 8, 1978)
46 Fed. Reg. 46784 (October 22, 1976)
46 Fed. Reg. 55703 (December 21, 1976)
46 Fed. Reg. 45540 (September 9, 1977)
46 Fed. Reg. 46544 (September 9, 1977)
47 Fed. Reg. 28436 (September 9, 1977)
47 Fed. Reg. 56893 (December 5, 1978)
47 Fed. Reg. 57602 (December 8, 1978)
48 Fed. Reg. 29687 (June 28, 1983)
49 Fed. Reg. 4350 (February 3, 1984)
49 Fed. Reg. 25796 (June 22, 1984)
50 Fed. Reg. 1050 (January 9, 1985)
50 Fed. Reg. 4648 (February 1, 1985)
50 Fed. Reg. 9800 (March 12, 1985)
50 Fed. Reg. 25796 (June 22, 1984)
50 Fed. Reg. 1050 (January 9, 1985)
50 Fed. Reg. 4648 (February 1, 1985)
50 Fed. Reg. 9800 (March 12, 1985)
50 Fed. Reg. 36992 (September 1, 1985)
51 Fed. Reg. 41494 (October 11, 1985)
51 Fed. Reg. 33033 (September 1, 1986)
51 Fed. Reg. 33260 (September 19, 1986)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 34562 (September 1, 1987)
52 Fed. Reg. 36026 (September 25, 1987)
52 Fed. Reg. 36387 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
52 Fed. Reg. 49624 (December 31, 1987)
52 Fed. Reg. 6629 (March 2, 1988)
53 Fed. Reg. 8352 (March 14, 1988)
53 Fed. Reg. 17695 (May 18, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 27960 (July 26, 1988)
53 Fed. Reg. 34736 (September 8, 1988)
53 Fed. Reg. 35625 (September 14, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
53 Fed. Reg. 38162 (September 29, 1988)
53 Fed. Reg. 39581 (October 7, 1988)
54 Fed. Reg. 9317 (March 6, 1989)
54 Fed. Reg. 31765 (August 1, 1989)
54 Fed. Reg. 36687 (September 1, 1989)
54 Fed. Reg. 36767 (September 5, 1989)
54 Fed. Reg. 37531 (September 11, 1989)
54 Fed. Reg. 41364 (October 6, 1989)
54 Fed. Reg. 46610 (November 6, 1989)
54 Fed. Reg. 49971 (December 4, 1989)
54 Fed. Reg. 50372 (December 6, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
55 Fed. Reg. 7967 (March 6, 1990)
55 Fed. Reg. 19259 (May 9, 1990)
55 Fed. Reg. 25094 (June 10, 1990)
55 Fed. Reg. 26431 (June 28, 1990)
55 Fed. Reg. 46053 (November 1, 1990)
56 Fed. Reg. 43700 (September 4, 1991)
56 Fed. Reg. 64175 (December 6, 1991)
57 Fed. Reg. 6403 (February 24, 1992)
57 Fed. Reg. 7847 (March 4, 1992)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 22307 (May 27, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 24701 (June 10, 1992)
57 Fed. Reg. 27160 (June 18, 1992)
57 Fed. Reg. 29204 (July 1, 1992)
57 Fed. Reg. 29206 (July 1, 1992)
57 Fed. Reg. 42388 (September 14, 1992)
58 Fed. Reg. 16496 (March 29, 1993)
58 Fed. Reg. 34845 (June 29, 1993)
58 Fed. Reg. 35308 (June 30, 1993)
58 Fed. Reg. 35340 (June 30, 1993)
59 Fed. Reg. 6169 (February 9, 1994)
59 Fed. Reg. 33910 (July 1, 1994)
59 Fed. Reg. 51741 (October 12, 1994)
60 Fed. Reg. 9624 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33344 (June 28, 1995)
60 Fed. Reg. 33984 (June 29, 1995)
60 Fed. Reg. 47035 (September 8, 1995)
60 Fed. Reg. 52859 (October 11, 1995)
61 Fed. Reg. 21228 (May 9, 1996)
61 Fed. Reg. 31430 (June 20, 1996)
62 Fed. Reg. 29668 (June 2, 1997)
62 Fed. Reg. 48175 (September 15, 1997)
62 Fed. Reg. 54383 (October 20, 1997)
63 Fed. Reg. 33467 (June 18, 1998)
63 Fed. Reg. 50729 (September 22, 1998)
63 Fed. Reg. 66038 (December 1, 1998)
63 Fed. Reg. 66270 (December 1, 1998)
64 Fed. Reg. 13700 (March 22, 1999)
64 Fed. Reg. 13908 (March 23, 1999)
64 Fed. Reg. 22552 (April 27, 1999)
65 Fed. Reg. 76567 (December 7, 2000)
66 Fed. Reg. 18191 (April 6, 2001)
69 Fed. Reg. 7363 (February 17, 2004)
69 Fed. Reg. 31881 (June 8, 2004)
70 Fed. Reg. 53929 (September 13, 2005)
70 Fed. Reg. 1140 (January 5, 2005)
72 Fed. Reg. 7190 (February 14, 2007)
72 Fed. Reg. 64428 (November 15, 2007)
72 Fed. Reg. 71068 (December 14, 2007)
73 Fed. Reg. 75583 (December 12, 2008)
74 Fed. Reg. 46355 (September 9, 2009)
74 Fed. Reg. 40447 (August 11, 2009)
75 Fed. Reg. 12685 (March 17, 2010)
76 Fed. Reg. 33606 (June 8, 2011)
76 Fed. Reg. 75786 (December 5, 2011)
77 Fed. Reg. 17764 (March 26, 2012)
76 Fed. Reg. 80738 (December 27, 2011)
77 Fed. Reg. 37598 (June 22, 2012)
78 Fed. Reg. 9313 (February 8, 2013)

[ARC 7699B, IAB 4/8/09, effective 5/13/09; ARC 8088B, IAB 9/9/09, effective 10/14/09; ARC 8395B, IAB 12/16/09, effective 1/20/10; ARC 8522B, IAB 2/10/10, effective 3/17/10; ARC 8997B, IAB 8/11/10, effective 9/15/10; ARC 9755B, IAB 9/21/11, effective 10/26/11; ARC 0173C, IAB 6/13/12, effective 7/18/12; ARC 0282C, IAB 8/22/12, effective 9/26/12; ARC 0726C, IAB 5/1/13, effective 6/5/13; ARC 0898C, IAB 8/7/13, effective 9/11/13]

These rules are intended to implement Iowa Code section 88.5.

[Filed 7/13/72; amended 8/29/72, 12/1/72, 8/16/73, 10/11/73, 3/18/74, 6/12/74, 12/3/74, 3/13/75]
[Filed 2/20/76, Notice 12/29/75—published 3/8/76, effective 4/15/76]
[Filed 6/21/76, Notice 5/17/76—published 7/12/76, effective 8/20/76]
[Filed emergency 10/13/77—published 11/2/77, effective 10/13/77]
[Filed 11/3/78, Notice 9/20/78—published 11/29/78, effective 1/10/79]
[Filed emergency 2/2/79—published 2/21/79, effective 2/2/79]
[Filed 8/1/80, Notice 6/25/80—published 8/20/80, effective 9/25/80]
[Filed emergency 6/15/81—published 7/8/81, effective 6/15/81]
[Filed 8/12/81, Notice 7/8/81—published 9/2/81, effective 10/9/81]
[Filed 4/22/83, Notice 3/16/83—published 5/11/83, effective 6/15/83]
[Filed 5/20/83, Notice 4/13/83—published 6/8/83, effective 7/15/83]

[Filed emergency after Notice 7/1/83, Notice 3/16/83—published 7/20/83, effective 7/1/83]
[Filed 7/12/84, Notice 3/14/84—published 8/1/84, effective 9/5/84]
[Filed emergency 5/8/85—published 6/5/85, effective 5/8/85]
[Filed 9/5/85, Notice 5/8/85—published 9/25/85, effective 10/30/85]
[Filed 12/30/85, Notice 10/23/85—published 1/15/86, effective 2/19/86]
[Filed 3/21/86, Notice 12/18/85—published 4/9/86, effective 5/25/86]
[Filed emergency 6/27/86—published 7/16/86, effective 7/21/86]
[Filed 6/27/86, Notice 3/26/86—published 7/16/86, effective 8/20/86]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 10/1/86—published 10/22/86, effective 10/1/86]
[Filed 10/1/86, Notice 7/16/86—published 10/22/86, effective 11/26/86]
[Filed emergency 4/17/87—published 5/6/87, effective 4/17/87]
[Filed 4/17/87, Notice 9/24/86—published 5/6/87, effective 6/10/87]
[Filed emergency 5/1/87—published 5/20/87, effective 5/1/87]
[Filed emergency 5/14/87—published 6/3/87, effective 5/14/87]
[Filed 5/12/87, Notice 10/22/86—published 6/3/87, effective 7/8/87]
[Filed emergency 6/15/87—published 7/1/87, effective 6/15/87]
[Filed 8/6/87, Notice 5/6/87—published 8/26/87, effective 9/30/87]
[Filed 8/6/87, Notice 5/20/87—published 8/26/87, effective 9/30/87]
[Filed 8/6/87, Notice 6/3/87—published 8/26/87, effective 9/30/87]
[Filed 8/6/87, Notice 7/1/87—published 8/26/87, effective 9/30/87]
[Filed 4/25/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
[Filed 8/30/88, Notice 6/15/88—published 9/21/88, effective 11/1/88]
[Filed 5/25/89, Notice 4/5/89—published 6/14/89, effective 7/20/89]
[Filed 8/18/89, Notice 6/14/89—published 9/6/89, effective 10/11/89]
[Filed 10/26/89, Notice 9/6/89—published 11/15/89, effective 12/20/89]
[Filed 1/19/90, Notice 11/15/89—published 2/7/90, effective 3/14/90]
[Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 5/9/90]
[Filed 6/8/90, Notice 4/4/90—published 6/27/90, effective 8/1/90]
[Filed 11/9/90, Notice 6/27/90—published 11/28/90, effective 1/2/91]
[Filed 2/15/91, Notice 11/28/90—published 3/6/91, effective 4/10/91]
[Filed 4/23/91, Notice 3/6/91—published 5/15/91, effective 6/19/91]
[Filed 6/28/91, Notice 5/15/91—published 7/24/91, effective 8/28/91]
[Filed 9/27/91, Notice 7/24/91—published 10/16/91, effective 11/20/91]
[Filed 12/20/91, Notice 10/30/91—published 1/8/92, effective 2/12/92]
[Filed emergency 2/12/92 after Notice 1/8/92—published 3/4/92, effective 3/4/92]
[Filed emergency 5/6/92 after Notice 4/1/92—published 5/27/92, effective 5/27/92]
[Filed emergency 7/17/92—published 8/5/92, effective 8/5/92]
[Filed emergency 7/29/92 after Notice 6/24/92—published 8/19/92, effective 8/19/92]
[Filed emergency 8/14/92 after Notice 7/8/92—published 9/2/92, effective 9/2/92]
[Filed emergency 9/11/92 after Notice 8/5/92—published 9/30/92, effective 9/30/92]
[Filed emergency 10/7/92 after Notice 9/2/92—published 10/28/92, effective 10/28/92]
[Filed emergency 12/4/92 after Notice 10/28/92—published 12/23/92, effective 12/23/92]
[Filed emergency 3/22/93 after Notice 2/17/93—published 4/14/93, effective 4/14/93]
[Filed emergency 7/29/93 after Notice 5/26/93—published 8/18/93, effective 8/18/93]
[Filed emergency 9/22/93 after Notice 8/18/93—published 10/13/93, effective 10/13/93]
[Filed emergency 10/7/93 after Notice 9/1/93—published 10/27/93, effective 10/27/93]
[Filed emergency 8/26/94 after Notice 7/20/94—published 9/14/94, effective 9/14/94]
[Filed emergency 9/23/94 after Notice 8/17/94—published 10/12/94, effective 10/12/94]
[Filed emergency 10/21/94 after Notice 9/14/94—published 11/9/94, effective 11/9/94]
[Filed emergency 1/4/95 after Notice 11/9/94—published 2/1/95, effective 2/1/95]
[Filed emergency 4/21/95 after Notice 3/15/95—published 5/10/95, effective 5/10/95]
[Filed emergency 7/14/95 after Notice 5/10/95—published 8/2/95, effective 8/2/95]
[Filed emergency 9/22/95 after Notice 8/16/95—published 10/11/95, effective 10/11/95]
[Filed emergency 12/1/95 after Notice 10/11/95—published 12/20/95, effective 12/20/95]
[Filed emergency 1/26/96 after Notice 12/20/95—published 2/14/96, effective 2/14/96]
[Filed emergency 7/12/96 after Notice 5/22/96—published 7/31/96, effective 7/31/96]
[Filed emergency 10/3/96 after Notice 7/31/96—published 10/23/96, effective 10/23/96]
[Filed emergency 11/27/96 after Notice 10/23/96—published 12/18/96, effective 12/18/96]
[Filed emergency 2/7/97 after Notice 12/18/96—published 2/26/97, effective 2/26/97]
[Filed emergency 12/11/97 after Notice 10/22/97—published 12/31/97, effective 12/31/97]
[Filed emergency 10/30/98 after Notice 9/23/98—published 11/18/98, effective 11/18/98]
[Filed emergency 1/8/99 after Notice 11/18/98—published 1/27/99, effective 1/27/99]
[Filed emergency 1/5/00 after Notice 8/25/99—published 1/26/00, effective 1/26/00]
[Filed 7/20/01, Notice 6/13/01—published 8/8/01, effective 9/12/01]
[Filed 1/8/00 after Notice 1/18/00—published 1/27/00, effective 1/27/00]
[Filed 3/14/03, Notice 2/5/03—published 4/2/03, effective 5/7/03]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 8/4/04]
[Filed 10/28/04, Notice 7/21/04—published 11/24/04, effective 12/29/04]
[Filed 2/10/06, Notice 12/21/05—published 3/1/06, effective 4/5/06]
[Filed 3/29/06, Notice 1/18/06—published 3/29/06, effective 5/3/06]
[Filed 6/14/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]
[Filed emergency 7/28/06—published 8/16/06, effective 8/28/06]
[Filed 1/10/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]
[Filed 5/16/07, Notice 4/11/07—published 6/6/07, effective 8/13/07]
[Filed 2/8/08, Notice 1/2/08—published 2/27/08, effective 5/15/08]
[Filed 6/24/08, Notice 5/7/08—published 7/16/08, effective 8/20/08]
[Filed ARC 7699B (Notice ARC 7541B, IAB 2/11/09), IAB 4/8/09, effective 5/13/09]
[Filed ARC 8088B (Notice ARC 7927B, IAB 7/1/09), IAB 9/9/09, effective 10/14/09]
[Filed ARC 8395B (Notice ARC 8241B, IAB 10/21/09), IAB 12/16/09, effective 1/20/10]
[Filed ARC 8522B (Notice ARC 8378B, IAB 12/16/09), IAB 2/10/10, effective 3/17/10]
[Filed ARC 8997B (Notice ARC 8862B, IAB 6/16/10), IAB 8/11/10, effective 9/15/10]
[Filed ARC 9755B (Notice ARC 9640B, IAB 7/27/11), IAB 9/21/11, effective 10/26/11]
[Filed ARC 0173C (Notice ARC 0105C, IAB 4/18/12), IAB 6/13/12, effective 7/18/12]
[Filed ARC 0282C (Notice ARC 0175C, IAB 6/27/12), IAB 8/22/12, effective 9/26/12]
[Filed ARC 0726C (Notice ARC 0587C, IAB 2/6/13), IAB 5/1/13, effective 6/5/13]
[Filed ARC 0898C (Notice ARC 0752C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
CHAPTER 26
CONSTRUCTION SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 26]

875—26.1(88) Adoption by reference. Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926, are hereby adopted by reference for implementation of Iowa Code chapter 88. These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa commissioner of labor, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

38 Fed. Reg. 16856 (June 27, 1973)
38 Fed. Reg. 27594 (October 5, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 19470 (June 3, 1974)
39 Fed. Reg. 24361 (July 2, 1974)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 56894 (December 5, 1978)
51 Fed. Reg. 22733 (June 20, 1986)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 36381 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
53 Fed. Reg. 22643 (June 16, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 35627 (September 14, 1988)
53 Fed. Reg. 35953 (September 15, 1988)
53 Fed. Reg. 36009 (September 16, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
54 Fed. Reg. 23850 (June 2, 1989)
54 Fed. Reg. 41088 (October 5, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
54 Fed. Reg. 53055 (December 27, 1989)
55 Fed. Reg. 3732 (February 5, 1990)
55 Fed. Reg. 42328 (October 18, 1990)
56 Fed. Reg. 5061 (February 7, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 29119 (June 30, 1992)
57 Fed. Reg. 42452 (September 14, 1992)
58 Fed. Reg. 35077 (June 30, 1993)
58 Fed. Reg. 35310 (June 30, 1993)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (June 30, 1993)
60 Fed. Reg. 9625 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33345 (June 28, 1995)
60 Fed. Reg. 34001 (June 29, 1995)
60 Fed. Reg. 36044 (July 13, 1995)
60 Fed. Reg. 39255 (August 2, 1995)
60 Fed. Reg. 50412 (September 29, 1995)
61 Fed. Reg. 31431 (June 20, 1996)
63 Fed. Reg. 33468 (June 18, 1998)
63 Fed. Reg. 35138 (June 29, 1998)
63 Fed. Reg. 66274 (December 1, 1998)
64 Fed. Reg. 22552 (April 27, 1999)
66 Fed. Reg. 5265 (January 18, 2001)
66 Fed. Reg. 37137 (July 17, 2001)
69 Fed. Reg. 31881 (June 8, 2004)
70 Fed. Reg. 1143 (January 5, 2005)
70 Fed. Reg. 76985 (December 29, 2005)
This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

[ARC 7699B, IAB 4/8/89, effective 5/13/89; ARC 8997B, IAB 8/11/10, effective 9/15/10; ARC 9230B, IAB 11/17/10, effective 12/22/10; ARC 9755B, IAB 9/21/11, effective 10/26/11; ARC 0173C, IAB 6/13/12, effective 7/18/12; ARC 0282C, IAB 8/22/12, effective 9/26/12; ARC 0726C, IAB 5/1/13, effective 6/5/13; ARC 0898C, IAB 8/7/13, effective 9/11/13]

[Filed 7/13/72; amended 8/29/72, 8/16/73, 10/11/73, 3/18/74, 12/3/74]
[Filed 2/20/76, Notice 12/29/75—published 3/8/76, effective 4/15/76]
[Filed 11/3/78, Notice 9/20/78—published 11/29/78, effective 1/10/79]
[Filed 8/1/80, Notice 6/25/80—published 8/20/80, effective 9/25/80]
[Filed 8/12/81, Notice 7/8/81—published 9/2/81, effective 10/9/81]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 10/1/86—published 10/22/86, effective 10/1/86]
[Filed 4/17/87, Notice 9/24/86—published 5/6/87, effective 6/10/87]
[Filed 4/17/87, Notice 10/22/86—published 5/6/87, effective 6/10/87]
[Filed emergency 6/15/87—published 7/1/87, effective 6/15/87]
[Filed 8/6/87, Notice 7/1/87—published 8/26/87, effective 9/30/87]
[Filed 3/17/89, Notices 9/21/88, 10/19/88—published 4/5/89, effective 5/10/89]
[Filed 8/18/89, Notices 6/14/89, 6/28/89—published 9/6/89, effective 10/11/89]
[Filed 10/26/89, Notice 9/6/89—published 11/15/89, effective 12/20/89]
[Filed 1/19/90, Notice 11/15/89—published 2/7/90, effective 3/14/90]
[Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 5/9/90]
[Filed 6/8/90, Notice 4/4/90—published 6/27/90, effective 8/1/90]
[Filed 2/15/91, Notice 11/28/90—published 3/6/91, effective 4/10/91]
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[Filed 12/20/91, Notice 10/30/91—published 1/8/92, effective 2/12/92]
[Filed emergency 2/12/92 after Notice 1/8/92—published 3/4/92, effective 3/4/92]
[Filed emergency 5/6/92 after Notice 4/1/92—published 5/27/92, effective 5/27/92]
[Filed emergency 7/17/92—published 8/5/92, effective 8/5/92]
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  [Filed emergency 7/28/06—published 8/16/06, effective 8/28/06]
  [Filed 1/10/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]
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