

INSPECTIONS AND APPEALS DEPARTMENT[481]

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The department's mission is to achieve compliance through education, regulation, and due process for a safe and healthy Iowa.

481—1.1(10A) Organization.

1.1(1) *Overview of the department.* The Iowa department of inspections and appeals is established by Iowa Code sections 10A.101 to 10A.802. The chief executive officer of the department is the director of the department of inspections and appeals, who shall be appointed by the governor to serve at the pleasure of the governor subject to confirmation by the senate no less frequently than every four years.

1.1(2) *Appointment of deputy.* The director is assisted by a deputy director who is appointed by the director of inspections and appeals.

1.1(3) *Organization of department.* The department is organized into divisions which are further divided into bureaus and units.

1.1(4) *Director's duties.* The director has general supervision over the administration and operation of all divisions. The director also develops statewide programs in compliance with the goals of the department.

1.1(5) *Deputy director's duties.* The deputy director serves as the principal deputy to the director. The deputy director represents the director in various capacities as directed.

1.1(6) *Issuance of subpoenas.* The director, or designee of the director, shall have the authority to issue subpoenas in accordance with the provisions of Iowa Code sections 10A.104(6) and 17A.13. In connection with audits, appeals, investigations, inspections, hearings, and any other permissible matters conducted by the department, the director, or designee of the director, may, upon the written request of a department employee or on the director's own initiative:

a. Issue subpoena duces tecum for the production and delivery of books, papers, records and other real evidence; and

b. Issue subpoenas for the appearance of persons to provide statements, statements under oath and depositions.

1.1(7) *Contents of subpoenas.* Each subpoena shall contain the following:

a. The name and address of the person to whom the subpoena is directed;

b. The date, time and location for the appearance of the person;

c. A description of the books, papers, records or other real evidence requested;

d. The date, time and location for production, inspections, or copying of the books, papers, records or other real evidence;

e. The signature and address of the director or designee;

f. The name, address and telephone number of a department employee who can be contacted for purposes of providing clarification or assistance in compliance with the subpoena;

g. The date of issuance; and

h. A return of service.

1.1(8) *Motions to quash or modify subpoena.* A person who desires to challenge a subpoena directed to that person must, within ten days after service of the subpoena, or before the time specified for compliance, if such time is less than ten days, file with the director a motion to quash or modify the subpoena. Upon receipt of a timely motion to quash or modify a subpoena, the director or the director's designee may issue a decision or request an administrative law judge to issue a decision. Oral argument may be scheduled and conducted at the discretion of the director or the director's designee or the administrative law judge. The director or the director's designee or the administrative law judge may quash or modify the subpoena, deny the motion, or issue other appropriate orders. A person aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the director by serving the director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge. The director's or the director's designee's decision is final for purposes of judicial review.

1.1(9) *Failure to comply with subpoena.* If the person to whom the subpoena is directed refuses or fails to obey the subpoena, the director, or the director's designee, may cause a petition to be filed in the Iowa district court seeking an order for the person's compliance. Failure to obey orders of that court shall render the person in contempt of the court and subject to penalties provided for that offense.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.2(10A) Definitions. The definitions set forth in Iowa Code section 10A.101 are incorporated herein.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.3(10A) Administration division. This division provides administrative support to the department, including fiscal, policy and planning, information technology, and public information. This division negotiates and provides oversight for compacts entered into between the state of Iowa and Indian tribes located in the state. The division also inspects and licenses the following:

1. Social and charitable gambling pursuant to Iowa Code chapter 99B;
2. Food establishments, including but not limited to restaurants, vending machines, mobile food units, food processing plants, and home food processing plants;
3. Hotels.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 3768C, IAB 4/25/18, effective 5/30/18; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.4(10A) Investigations division. The investigations division of the department conducts criminal, civil, and administrative investigations of fraud and misconduct. The division also conducts audits of health care facilities. Staff within the division work closely with federal, state, and local partners in identifying fraud, waste, and abuse and, where appropriate, presenting cases for criminal prosecution.

1.4(1) Units of the division. The division is comprised of the following units.

a. Audit unit. The audit unit audits health and human services health care facilities to review and verify facility resident billing and personal allowance accounts and to determine whether state billings accurately reflect the health care facility census. The unit audits local department of human services offices to review and verify whether administrative expense claims and official receipts are in accordance with the criteria set forth in 2 CFR Part 200 and state law.

b. Economic fraud control bureau (EFCB). The economic fraud control bureau investigates recipient public assistance fraud and supplemental nutrition assistance program (SNAP) trafficking. Division staff investigate suspected fraud and assist the department of human services to determine eligibility for public assistance. Division staff may conduct investigations relative to the administration of any other state or federal benefit assistance program. Division staff may also conduct investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

c. Medicaid fraud control unit (MFCU). The Medicaid fraud control unit investigates allegations of fraud committed by providers against the Medicaid program as well as fraud in the administration of the Medicaid program. MFCU also investigates abuse, neglect or other crimes committed upon residents in care facilities or related programs that receive funding from the Medicaid program.

d. Public assistance debt recovery unit (PADRU). The public assistance debt recovery unit investigates and initiates collections of overpayment debts owed to the department of human services.

1.4(2) Peace officer status. Pursuant to Iowa Code section 10A.403, investigators assigned to the division shall have the powers and authority of peace officers when acting within the scope of their responsibilities to conduct investigations as specified in Iowa Code section 10A.402(5). An investigator shall not carry a weapon to perform responsibilities as described in this subrule.

This rule is intended to implement Iowa Code sections 10A.401 to 10A.403.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 3769C, IAB 4/25/18, effective 5/30/18; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.5(10A) Health facilities division. This division conducts inspections and investigations, including but not limited to the following:

1. Investigations relative to the standards and practices of hospitals, hospice programs, and health care facilities.
2. Inspections and other licensing procedures relative to hospice programs, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.
3. Inspections relative to hospital and health care facility construction projects.
4. Inspections of child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.
5. Inspections and certification of elder group homes, assisted living programs, and adult day services programs.
6. Registration of boarding homes.
7. Investigation of dependent adult abuse in facilities and programs.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.6(10A) Administrative hearings division. The division conducts contested case hearings for state agencies, departments, boards, and commissions. In addition, the division conducts contested case hearings for some counties and municipalities.

1.6(1) All hearings are governed by Iowa Code chapter 17A, other applicable statutes, including the transmitting agency's enabling statute and the statute authorizing the action taken, applicable agency rules, and the department's administrative rules found at 481—Chapters 9 to 11.

1.6(2) The administrator shall coordinate the division's conduct of all hearings.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.7(10A) Administering discretion. Nothing in the aforesaid allocation of duties shall be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the director.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.8(10A) Employment appeal board. The employment appeal board consists of three members appointed by the governor, subject to confirmation by the senate, to staggered six-year terms. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. This board hears and decides contested cases under Iowa Code chapters 8A, subchapter IV, 80, 88, 91C, 96, and 97B in accordance with administrative rules promulgated by the employment appeal board.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.9(10A,237) Child advocacy board. The child advocacy board consists of nine members appointed by the governor, subject to confirmation by the senate. This board administers foster care review and the court appointed special advocate programs, as defined in Iowa Code section 237.18, in accordance with administrative rules promulgated by the board.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.10(10A,13B) State public defender. The governor shall appoint the state public defender, who shall serve at the pleasure of the governor, subject to confirmation by the senate. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under Iowa Code section 811.1A or Iowa Code chapter 229A or 812, in juvenile proceedings, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to Iowa Code chapter 908.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.11(10A,99D,99F) Racing and gaming commission. The Iowa racing and gaming commission regulates pari-mutuel horse racing, simulcasting, gambling structures, excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests in Iowa. The commission, whose five members are appointed by the governor, administers the laws and rules associated with these industries to maintain confidence in the industries and to ensure the integrity of licensed participants and operations for the state and the wagering public. In performing its duties, the commission investigates the eligibility of applicants for licensure. The commission adopts standards for the licensing of racing industry occupations, as well as standards for the operation of all race meetings and facilities. The commission also adopts standards for the operation and licensing of pari-mutuel and simulcast wagering, gambling structures, excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.12(10A,68B) Consent for the sale of goods and services. An official or employee of the department shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and rule 351—6.11(68B).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code chapters 10A, 13B, 68B, 99D, 99F, and 237.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

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[Filed 4/26/02, Notice 3/20/02—published 5/15/02, effective 6/19/02]

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[Filed ARC 3768C (Notice ARC 3650C, IAB 2/28/18), IAB 4/25/18, effective 5/30/18]

[Filed ARC 3769C (Notice ARC 3649C, IAB 2/28/18), IAB 4/25/18, effective 5/30/18]

[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

CHAPTER 2

PETITIONS FOR RULEMAKING

The department adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to petitions for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. References to "the agency" within any uniform rule include the department and any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless a division, board, or commission has separate rulemaking authority and has adopted rules governing petitions for rulemaking.

[ARC 7806C, IAB 4/17/24, effective 5/22/24]

481—2.1(17A) Petition for rulemaking. In lieu of the words "the agency (designate office)", insert "the department or specific division, board, or commission within the department where the petition is directed, as applicable". In lieu of the words "(AGENCY NAME)", insert the department or specific division, board, or commission within the department where the petition is directed.

[ARC 7806C, IAB 4/17/24, effective 5/22/24]

481—2.3(17A) Inquiries. Inquiries concerning the status of a petition for rulemaking may be made to the department or applicable division, board, or commission as provided on the department's website.

[ARC 7806C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 17A.7.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

[Filed ARC 7806C (Notice ARC 7645C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 3 DECLARATORY ORDERS

The department of inspections, appeals, and licensing adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to declaratory orders, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. These rules are applicable to any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless a division, board, or commission has separate rulemaking authority and has adopted rules governing declaratory orders. In lieu of the words “(designate agency)” within any uniform rule, insert the name of the department or specific board or division within the department where the petition for declaratory order is directed, as applicable. In lieu of the words “(designate office)”, insert the current location of the department, board, or division within the department, as applicable.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.1(17A) Petition for declaratory order. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING
[or the specific board or division within the department where the petition is directed]

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.2(17A) Notice of petition. In lieu of the words “___ days (15 or less)”, insert “15 days”.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.3(17A) Intervention.

3.3(1) In lieu of the words “within ___ days”, insert “within 15 days”. Strike the words “(after time for notice under X.2(17A))”. In lieu of the number “X.8(17A)”, insert “rule 481—3.8(17A)”.

In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING
[or the specific board or division within the department where the petition is directed]

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “to the department or applicable division, board, or commission as provided on the department's website”.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.6(17A) Service and filing of petitions and other papers.

3.6(2) In lieu of the words “(specify office and address)”, insert the current address of the department, board, or division within the department, as applicable.

3.6(3) In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A), except that the filing will be delivered to the department, board, or division at its current location”.

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

481—3.8(17A) Action on petition. Replace all uniform rule text with “Action on the petition will be taken in accordance with Iowa Code section 17A.9(5).”

[ARC 7807C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 17A.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

[Filed ARC 7807C (Notice ARC 7646C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 4

AGENCY PROCEDURE FOR RULEMAKING

[481—Chapter 4 renumbered as 481—Chapter 10, effective 3/16/88.]

The department of inspections, appeals, and licensing adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to agency procedure for rulemaking, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. References to "the agency" include the department or any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless the division, board, or commission has separate rulemaking authority and has adopted rules governing procedures for rulemaking.

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.3(17A) Public rulemaking docket.

4.3(2) *Anticipated rulemaking.* In lieu of the words "(commission, board, council, director)", insert "director, board, commissioner, or the like, as applicable".

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.4(17A) Notice of proposed rulemaking.

4.4(3) *Notices mailed.* In lieu of the words "(specify time period)", insert "one calendar year".

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.5(17A) Public participation.

4.5(1) *Written comments.* Strike the words "(identify office and address) or".

4.5(5) *Accessibility.* In lieu of the words "(designate office and telephone number)", insert "the department, board, commissioner, or the like, as applicable".

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.6(17A) Regulatory analysis.

4.6(2) *Mailing list.* In lieu of the words "(designate office)", insert "the department, division, board, commissioner, or the like, as applicable".

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.11(17A) Concise statement of reasons.

4.11(1) *General.* In lieu of the words "(specify the office and address)", insert "the department or board, as applicable".

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

481—4.13(17A) Agency rulemaking record.

4.13(2) *Contents.* Amend paragraph "c" by inserting "director, board, commissioner, or the like, as applicable" in lieu of "(agency head)".

[ARC 7808C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 17A and section 25B.6.

[Filed 1/22/88, Notice 12/16/87—published 2/10/88, effective 3/16/88]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

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[Filed ARC 7808C (Notice ARC 7647C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[481—Chapter 5 renumbered as 481—Chapter 11, IAB 2/10/88, effective 3/16/88]

The department of inspections and appeals adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

481—5.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “department of inspections and appeals”.

“Custodian” means an agency, which owns and exercises control over public records. The originating agency, if any, is the custodian of records which are used to perform work or a service for the originating agency.

“Originating agency” means any government agency which has requested the department to perform work or a service on its behalf. An originating agency retains custody of all records provided by the originating agency to the department.

481—5.3(17A,22) Requests for access to records.

5.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “director”. In lieu of the words “(insert agency name and address)”, insert “Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319”.

5.3(2) Office hours. In lieu of the words “(insert customary office hours, and if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. Monday through Friday except legal holidays.”

5.3(7) Fees.

c. Supervisory fee. In lieu of “(specify time period)” insert “one hour”.

481—5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record. In lieu of the words “(designate office)” insert “the originating agency, or to the director's office”.

481—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as defined in rule 481—5.10(17A,22) or in the notice for a particular record system.
- b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e.* To the legislative services agency under Iowa Code section 2A.3.
- f.* Disclosures in the course of employee disciplinary proceedings.
- g.* In response to a court order or subpoena.

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—5.10(17A,22) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, and agents of the department or the originating agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

2. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
3. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
4. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
5. Any disclosure specifically authorized by the statute under which the record was collected or maintained.
6. Information transferred to any originating agency when inspections and appeals department has completed the authorized audit, investigation, or inspection.

481—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 481—5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) *Obtaining information from a third party.* The department of inspections and appeals occasionally requests personally identifiable information from third parties during the course of its authorized audits, investigations, hearings or inspections. Requests to third parties for this information involve the release of confidential identifying information and shall be made in accordance with the department's pertinent statutory authority.

5.11(4) *Child support recovery unit.* Information shared by or with the child support recovery unit of the department of human services pursuant to Iowa Code chapter 252J shall only be used as set forth in Iowa Code section 252J.2(4).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—5.12(17A,22) Release to subject.

5.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule 481—5.6(17A,22). The department need not release the following records to the subject:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney, or a hearing officer's personal notations to be used by the hearing officer and not intended for public dissemination; or they are otherwise privileged.
- c. Investigative reports may be withheld from the subject, except as required by the Iowa Code. (Iowa Code section 22.7(5).)
- d. Others authorized by law.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

[ARC 6802C, IAB 1/11/23, effective 2/15/23; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—5.13(17A,22) Availability of records. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(1) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

- a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)
- b. Tax records made available to the agency.
- c. Exempt records under Iowa Code section 22.7.
- d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(5))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."
- f. Those portions of department staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by department staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2, 17A.3)

g. Confidential records are also described in the rules of each division.

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa Rule of Civil Procedure 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. Any other records made confidential by law.

Iowa Code sections 10A.105, 22.7, 135B.12, 135C.19, 217.30, and 272C.6 contain specific authority.

5.13(2) Reserved.

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—5.14(17A,22) Authority to release confidential records. The department may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 481—5.4(17A,22). If the department initially determines that it will release these records, the department may notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—5.15(17A,22) Personnel files. The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

481—5.16(17A,22) Personally identifiable information. The department maintains systems of records which contain personally identifiable information.

5.16(1) Rule making. Rule-making records may contain information about people who make written or oral comments about proposed rules. Iowa Code section 17A.4 requires collection and retention of this information.

5.16(2) Administrative hearings division. Contested case records are maintained in electronic files and contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a hearing are contained in the contested case file.

Records are collected by authority of Iowa Code chapter 10A. None of the information stored in a data processing system is compared with information in any other data processing system.

Records of hearings are recorded digitally or in written transcripts.

5.16(3) Appellate defender. By authority of Iowa Code chapter 13B, the appellate defender maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases, and are maintained in paper and electronic files. Case information is not stored in a data processing system and cannot be compared with information in any data processing system. By authority of Iowa Code section 915.36, the appellate defender shall not disclose the names of child victims. Presentence investigation reports in the possession of the appellate defender are confidential records pursuant to Iowa Code section 901.4.

Litigation files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain material which is confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court which maintains the official copy.

5.16(4) *Investigations division.* Files are stored electronically using encrypted cloud storage and state-administered servers. Electronic records are retrievable using a name, social security number, state identification number, or other program identifier, as applicable.

All records are collected and stored by the investigations division pursuant to Iowa Code section 10A.402.

Comparisons between record systems are explained in rule 481—90.8(10A).

5.16(5) *Health facilities division.* Records of the health facilities division are collected pursuant to Iowa Code sections 10A.702, 235E.2, and other entity- and program-specific authority. Records are maintained in paper and electronic files and may contain personally identifiable information. Records may be compared with information on data processing systems, including the direct care worker registry, and may be retrievable by personal identifier. A general list of records considered confidential is available in rule 481—50.8(10A).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code sections 10A.105, 22.7, 22.11, 135B.12, 135C.19, 217.30 and 272C.6.

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

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[Filed ARC 6862C (Notice ARC 6741C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

CHAPTER 6 UNIFORM WAIVER RULES

481—6.1(10A,17A,ExecOrd11) Applicability. This chapter outlines a uniform process for the granting of waivers from rules adopted by the department. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the department.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.2(10A,17A,ExecOrd11) Definitions.

“Attached units” means units attached to the department and includes the employment appeal board, child advocacy board, racing and gaming commission, and state public defender’s office.

“Department” means the department of inspections and appeals authorized by Iowa Code chapter 10A, which is comprised of the administrative division, administrative hearings division, audits division, health facilities division, inspections division and investigations division. Pursuant to Iowa Code section 7E.2(5), five attached units are included in the department.

“Director” means the director of the department of inspections and appeals or the director’s designee.

“Director/board” means the director, board, commission or state public defender depending on which one has the decision-making authority pursuant to Iowa Code chapter 10A or 7E.

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or association, or any legal entity.

[ARC 5670C, IAB 6/2/21, effective 7/21/21; ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.3(10A,17A,ExecOrd11) Interpretive rules. This chapter shall not apply to rules that merely define the meaning of a statute or other provision of law or precedent if the department does not possess delegated authority to bind the courts to any extent with its definition.

481—6.4(10A,17A,ExecOrd11) Compliance with statute. The department shall not grant a petition for waiver from a rule unless a statute or other provision of law has delegated authority to the department sufficient to justify that action and the waiver is consistent with the statute or other provision of law. No waiver may be granted from a requirement that is imposed by statute, unless the statute itself specifically authorizes that action. Any waiver must be consistent with statute.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.5(10A,17A,ExecOrd11) Criteria for waiver. At the sole discretion of the director/board, the director/board may issue an order, in response to a completed petition, granting a waiver from a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person or a specific and narrowly drawn class of persons if the director/board finds based on clear and convincing evidence that:

1. The application of the rule to the petitioner would pose an undue hardship on the person or class of persons for whom the waiver is requested;
2. The waiver from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of a rule subject to a petition for a waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.6(10A,17A,ExecOrd11) Filing of petition. A petition for a waiver must be submitted in writing to the Department of Inspections and Appeals, Office of the Director, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. If the petition relates to a pending contested case, the petition shall also be filed in the contested case proceeding.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.7(10A,17A,ExecOrd11) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the entity or person for whom a waiver is being requested and the case number of any related contested case.

2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and operative period that the waiver will extend.
4. The relevant facts that the petitioner believes would justify a waiver. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the department and the petitioner relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the department that would be affected by the proposed waiver, including a description of each regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the department, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the department within the last five years.
6. Any information known to the requester regarding the department's treatment of similar cases.
7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.
8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.8(10A,17A,ExecOrd11) Additional information. Prior to issuing an order granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the department may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the department or department's designee.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.9(10A,17A,ExecOrd11) Notice. The department shall acknowledge a petition upon receipt. The department shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the department may give notice to other persons. To accomplish this notice provision, the department may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the department attesting that notice has been provided.

481—6.10(10A,17A,ExecOrd11) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver of rule filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the department so provides by rule or order or is required to do so by statute.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.11(10A,17A,ExecOrd11) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

6.11(1) Director/board discretion. The decision on whether the circumstances justify the granting of a waiver shall be made at the discretion of the director upon consideration of all relevant factors, except for the below-listed programs, for which the applicable board, commission or state public defender shall make the decision, upon consideration of all relevant factors:

- a. Employment appeal board, 486—Chapter 1.
- b. Child advocacy board, 489—Chapter 1.
- c. Racing and gaming commission, 491—Chapter 1.
- d. State public defender's office, 493—Chapter 1.

6.11(2) Burden of persuasion. The petitioner has the burden of persuasion when a petition is filed for a waiver from a department rule. The standard of proof is clear and convincing evidence.

6.11(3) *Special waiver rules not precluded.* This chapter shall not preclude the department from granting waivers in other contexts or on the basis of other standards if a statute authorizes the department to do so and the department deems it appropriate to do so.

6.11(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the director/board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons similarly situated.

6.11(5) *Conditions.* The director/board may condition the granting of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means and in compliance with the following provisions:

a. Each petition for a waiver shall be evaluated by the department based on the unique, individual circumstances set out in the petition;

b. A waiver, if granted, shall be drafted by the department so as to provide the narrowest exception possible to the provisions of the rule;

c. The department may place on a waiver a condition that the department finds desirable to protect the public health, safety, and welfare;

d. A waiver shall not be permanent, unless the petitioner can show that a temporary waiver would be impracticable; and

e. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the department, a waiver may be renewed if the department finds that all of the factors set out in rule 481—6.5(10A,17A,ExecOrd11) remain valid.

6.11(6) *Time for ruling.* The director/board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the director/board has the discretion to wait until the contested case is resolved before entering an order on the petition for waiver.

6.11(7) *When deemed denied.* Failure of the director/board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the director/board.

6.11(8) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.12(10A,17A,ExecOrd11) Public availability.

6.12(1) Subject to the provisions of Iowa Code section 17A.3(1)“e,” the department shall maintain a record of all orders granting or denying waivers under this chapter. All final rulings in response to requests for waivers shall be indexed and available to members of the public at the director’s office.

6.12(2) Within 60 days of granting or denying a waiver, the department must make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information.

a. The submission shall:

- (1) Identify the rules for which a waiver has been granted or denied;
- (2) Identify the number of times a waiver was granted or denied for each rule;
- (3) Include a citation to the statutory provisions implemented by these rules; and
- (4) Include a general summary of the reasons justifying the department’s actions.

b. To the extent practicable, the department shall include information detailing the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.13(10A,17A,ExecOrd11) Voiding or cancellation. A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The director/board may at any time cancel a waiver upon appropriate notice and hearing if the director/board finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.14(10A,17A,ExecOrd11) Violations. Violation of conditions in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.15(10A,17A,ExecOrd11) Defense. After the director/board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.16(10A,17A,ExecOrd11) Appeals. Any request for an appeal from a decision granting or denying a waiver shall be in accordance with the procedures provided in Iowa Code chapter 17A and rules adopted by the department. An appeal shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—6.17(10A,17A,ExecOrd11) Sample petition for waiver.

BEFORE THE DEPARTMENT OF INSPECTIONS AND APPEALS

Petition by (insert the name of petitioner)
for the waiver of (insert rule citation)
relating to (insert the subject matter).

}

PETITION FOR WAIVER

Include the following information in the petition for waiver where applicable and known:

1. Provide the petitioner's (the person that is asking for the waiver) name, address and telephone number.
2. Describe and cite the specific rule from which a waiver is requested.
3. Describe the specific waiver requested. Include the exact scope and time period that the waiver will extend.
4. Explain the important facts that the petitioner believes justify the waiver. Include in your explanation (a) why application of the rule would pose an undue hardship to the petitioner; (b) why granting the waiver would not prejudice the substantial legal rights of any person; (c) state whether the provisions of a rule subject to this petition are specifically mandated by statute or another provision of law; and (d) state whether public health, safety and welfare will be affected if the requested waiver is granted.
5. Provide history of prior contacts between the department and the petitioner relating to the regulated activity, license, audit, investigation, inspection or representation that would be affected by the waiver. In that history, include a description of each affected regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the department, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, appeal, hearing, audit, investigation, inspection, representation or other assigned function of the department within the last five years.
6. Provide information known to the petitioner regarding the department's treatment of similar cases.
7. Provide the name, address and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.
8. Provide the name, address and telephone number of any person or entity that would be adversely affected or disadvantaged by the granting of the waiver.
9. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

Petitioner's signature

Date

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

These rules are intended to implement Iowa Code section 17A.9A and
Executive Order Number 11

[Filed 4/12/01, Notice 1/24/01—published 5/2/01, effective 6/6/01]

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[Filed ARC 5719C (Notice ARC 5560C, IAB 4/21/21), IAB 6/16/21, effective 7/21/21]

CHAPTER 7
MILITARY SERVICE, VETERAN RECIPROCITY, AND
SPOUSES OF ACTIVE-DUTY SERVICE MEMBERS

481—7.1(272C) Applicability and definitions. These rules are applicable to any licensing authority under the administrative authority of the department pursuant to Iowa Code chapter 10A unless that licensing authority has separate rulemaking authority and has adopted governing rules. As used in this chapter:

“*Department*” means the department of inspections, appeals, and licensing.

“*License*” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued by a licensing authority authorizing a person to engage in a profession, occupation, or business.

“*Licensing authority*” means a board, a commission, or any other division or entity of the department that has the authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession pursuant to Iowa Code chapter 272C.

“*Military service*” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c) (2021); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101(2006).

“*Military service applicant*” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“*Spouse*” means the spouse of an active-duty member of the military forces of the United States.

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

[ARC 8036C, IAB 5/29/24, effective 7/3/24]

481—7.2(272C) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure in accordance with Iowa Code chapter 272C by submitting a military service application form to the licensing authority.

7.2(1) The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

7.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit will not be applied to an examination requirement.

7.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

7.2(4) Upon receipt of a completed military service application, the licensing authority will promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

7.2(5) The licensing authority will grant credit requested in the application in whole or in part if the licensing authority determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

7.2(6) The licensing authority will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

7.2(7) An applicant who is aggrieved by the licensing authority’s decision may request a contested case hearing. A request for a contested case shall be made within 30 days of issuance of the licensing authority’s decision. Unless the licensing authority has adopted rules governing contested case hearings under the jurisdiction of that licensing authority, the provisions of 481—Chapter 9 apply, except that no fees or costs will be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

7.2(8) The licensing authority will grant or deny the military service application prior to ruling on the application for licensure. The applicant will not be required to submit any fees in connection with the licensure application unless the licensing authority grants the military service application. If the licensing authority does not grant the military service application, the applicant may withdraw the licensure application or request that the application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application does not preclude subsequent applications supported by additional documentation or information.

[ARC 8036C, IAB 5/29/24, effective 7/3/24]

481—7.3(272C) Veteran and active-duty military spouse reciprocity.

7.3(1) A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity in accordance with Iowa Code chapter 272C. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with the licensing authority's laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran or spouse under this subrule will be given priority and will be expedited.

7.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including but not limited to completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant will use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse.

7.3(3) Upon receipt of a fully completed licensure application, the licensing authority will promptly determine if the scope of practice of the jurisdiction where the veteran or spouse is licensed is substantially equivalent to the scope of practice in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction.

7.3(4) The licensing authority will promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose scope of practice is substantially equivalent to the scope required in Iowa unless the applicant is ineligible for licensure based on other grounds, including, for example, the applicant's disciplinary history or criminal background.

7.3(5) If the licensing authority determines that the scope of practice in the jurisdiction in which the applicant is licensed is not substantially equivalent to the scope of practice in Iowa, the licensing authority will promptly inform the applicant of the additional education or training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary history or criminal background, the following will apply:

a. If the applicant has not passed the required examination(s) for licensure, the applicant may not be issued a temporary license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional education or training is required, the applicant may request that the licensing authority issue a temporary license for a specified period of time during which the applicant will successfully complete the necessary education or training. The licensing authority will issue a temporary license for a specified period of time upon such conditions as the licensing authority deems reasonably necessary to protect the health, welfare, or safety of the public unless the licensing authority determines that the deficiency is of a character by which public health, welfare, or safety will be adversely affected if a temporary license is granted.

c. If a request for a temporary license is denied, the licensing authority shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take to receive a temporary license.

d. If a temporary license is issued, the application for full licensure will be placed in pending status until the necessary education or training has been successfully completed or the temporary license expires, whichever occurs first. The licensing authority may extend a temporary license on a case-by-case basis for good cause.

7.3(6) An applicant who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a temporary license or is aggrieved by the terms under which a temporary license will be granted may request a contested case hearing as set forth in subrule 7.2(7).

[ARC 8036C, IAB 5/29/24, effective 7/3/24]

These rules are intended to implement Iowa Code sections 272C.4, 272C.12, and 272C.12A.

[Filed ARC 8036C (Notice ARC 7754C, IAB 4/3/24), IAB 5/29/24, effective 7/3/24]

CHAPTER 8
LICENSING AND CHILD SUPPORT NONCOMPLIANCE, STUDENT LOAN
REPAYMENT NONCOMPLIANCE, AND NONPAYMENT OF STATE DEBT

481—8.1(252J,272D) Definitions. For the purpose of this chapter, the following definitions apply:

“*Applicant*” means a person seeking the issuance of a license.

“*Department*” means the department of inspections, appeals, and licensing.

“*License*” means the same as defined in Iowa Code sections 252J.1 and 272D.1.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

CHILD SUPPORT NONCOMPLIANCE

481—8.2(252J) Definitions. For the purpose of this division, the following definitions apply:

“*Certificate of noncompliance*” means the same as defined in Iowa Code section 252J.1.

“*Licensing authority*” means the same as defined in Iowa Code section 252J.1 and includes the department and any board, commission, or other entity of the department having authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

481—8.3(252J) Child support certificates of noncompliance. The licensing authority will suspend, revoke, or deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit in accordance with Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the rules in this chapter apply.

8.3(1) Notice required by Iowa Code section 252J.8 will be served upon the applicant or licensee by restricted certified mail, return receipt requested; personal service in accordance with Iowa Rule of Civil Procedure 1.305; or the acceptance of service by the applicant or licensee personally or through authorized counsel.

8.3(2) The effective date of the denial, revocation, or suspension is 60 days following service of the notice upon the applicant or licensee.

8.3(3) The licensing authority is authorized to prepare and serve the notice mandated by Iowa Code section 252J.8 upon the applicant or licensee.

8.3(4) Applicants and licensees are responsible for keeping the licensing authority informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, including providing the licensing authority copies, within seven days of filing or issuance, of applications filed with the district court pursuant to Iowa Code section 252J.9, court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

8.3(5) All licensing authority fees required for license application, renewal or reinstatement must be paid before a license will be issued, renewed or reinstated after proceedings under Iowa Code chapter 252J.

8.3(6) A licensee or applicant may file an application with the district court within 30 days of service of a licensing authority notice pursuant to Iowa Code sections 252J.8 and 252J.9. The filing of the application stays the licensing authority’s action until the licensing authority receives a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial, revocation, or suspension, the licensing authority will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.3(7) The licensing authority will notify the applicant or licensee in writing within ten days of the effective date of the denial, suspension, or revocation of a license, and will similarly notify the applicant or licensee when the license is issued, renewed, or reinstated following the licensing authority’s receipt of a withdrawal of the certificate of noncompliance.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 252J.

STUDENT LOAN REPAYMENT NONCOMPLIANCE

481—8.4(272C) Student loan repayment noncompliance. Pursuant to Iowa Code section 272C.10(4), a person who is in default or delinquent on student loan payments will not be denied a license or have a license suspended or revoked solely on the basis of such default or delinquency.

This rule is intended to implement Iowa Code section 272C.4.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

NONPAYMENT OF STATE DEBT

481—8.5(272D) Definitions. For the purpose of this division, the following definitions apply:

“*Certificate of noncompliance*” means the same as defined in Iowa Code section 272D.1.

“*Licensing authority*” means the same as defined in Iowa Code section 272D.1 and includes the department and any board, commission, or other entity of the department having authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

481—8.6(272D) State debt certificates of noncompliance. The licensing authority will suspend, revoke, or deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue in accordance with Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, the rules in this chapter apply.

8.6(1) Notice required by Iowa Code section 272D.8 will be served upon the applicant or licensee by restricted certified mail, return receipt requested; personal service in accordance with Iowa Rule of Civil Procedure 1.305; or the acceptance of service by the applicant or licensee personally or through authorized counsel.

8.6(2) The effective date of the denial, revocation, or suspension is 60 days following service of the notice upon the applicant or licensee.

8.6(3) The licensing authority is authorized to prepare and serve the notice mandated by Iowa Code section 272D.8 upon the applicant or licensee.

8.6(4) Applicants and licensees are responsible for keeping the licensing authority informed of all court actions and all actions of the department of revenue taken under or in connection with Iowa Code chapter 272D, including providing the licensing authority copies, within seven days of filing or issuance, of applications filed with the district court pursuant to Iowa Code section 272D.9, court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

8.6(5) All licensing authority fees required for license application, renewal or reinstatement must be paid before a license will be issued, renewed or reinstated after proceedings under Iowa Code chapter 272D.

8.6(6) A licensee or applicant may file an application with the district court within 30 days of service of a licensing authority notice pursuant to Iowa Code sections 272D.8 and 272D.9. The filing of the application stays the licensing authority’s action until the licensing authority receives a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial, revocation, or suspension, the licensing authority will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.6(7) The licensing authority will notify the applicant or licensee in writing within ten days of the effective date of the denial, suspension, or revocation of a license, and will similarly notify the applicant or licensee when the license is issued, renewed, or reinstated following the licensing authority’s receipt of a withdrawal of the certificate of noncompliance.

[ARC 7809C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 272D.

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[Filed ARC 7809C (Notice ARC 7649C, IAB 2/21/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 9
CONTESTED CASES
[Prior to 12/20/17, see 481—Ch 10]

481—9.1(10A,17A) Applicability. This chapter applies to contested case proceedings conducted under the authority of the department of inspections and appeals in which the director of the department of inspections and appeals is the final decision-making authority.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—9.2(10A,17A) Initiation of a contested case proceeding. If the department decides to initiate a contested case proceeding upon request or its own initiative, the department shall transmit the proceeding to the administrative hearings division, which shall issue a notice of hearing and assign the proceeding to an administrative law judge to serve as the presiding officer. All contested case proceedings shall be conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—9.3(10A,17A) Director review.

9.3(1) A request for review of a proposed decision 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 on its own motion as follows. The department may review a proposed decision upon its own motion within 15 days of issuance of the proposed decision.

9.3(2) A review shall be based on the record and limited to issues raised in the hearing. The issues shall be specified in the party's request for review.

9.3(3) Each party shall have opportunity to file exceptions and present briefs. The director or a designee of the director may set a deadline for submission of briefs. When the director or the director's designee consents, oral arguments may be presented. A party wishing to make an oral argument shall specifically request it. All parties shall be notified of the scheduled time and place in advance.

9.3(4) The director or the director's designee shall not take any further evidence with respect to issues of fact heard in the hearing except as set forth below. Application may be filed for leave to present evidence in addition to that found in the record of the case. If it is shown to the satisfaction of the director or the director's designee that the additional evidence is material and that there were good reasons for failure to present it in the hearing, the director or the director's designee may order the additional evidence taken upon conditions determined by the director or the director's designee.

9.3(5) Final decisions shall be issued by the director or the director's designee.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—9.4(10A,17A) Rehearing. Requests for rehearing shall be made to the director of the department within 20 days of issuance of a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available or an obvious mistake is corrected or when the decision failed to include adequate findings or conclusions on all issues. A request for rehearing is not necessary to exhaust administrative remedies.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—9.5(10A,17A) Judicial review. Judicial review of department final decisions may be sought in accordance with Iowa Code section 17A.19.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

These rules are intended to implement Iowa Code chapters 10A and 17A.

[Filed ARC 3523C (Notice ARC 3407C, IAB 10/25/17), IAB 12/20/17, effective 1/24/18]

CHAPTER 10
RULES OF PROCEDURE AND PRACTICE
BEFORE THE ADMINISTRATIVE HEARINGS DIVISION

[Prior to 2/10/88, see Inspections and Appeals Department[481],Ch 4]

481—10.1(10A) Definitions.

“*Administrative law judge (ALJ)*” means the person who presides over contested cases and other proceedings.

“*Agency*” means the agency as defined in Iowa Code subsection 17A.2(1) which has original subject matter jurisdiction in the contested case.

“*Appointing authority*” means the appointed or elected chief administrative head of a department, commission, board, independent agency, or statutory office or that person’s designee or in the case of gubernatorial appointees, the governor.

“*Board*” means a licensing board as defined in Iowa Code chapter 272C.

“*Department*” means the department of inspections and appeals (DIA).

“*Division*” means the division of administrative hearings in the department of inspections and appeals.

“*Ex parte*” means a communication, oral or written, to an ALJ or other decision maker in a contested case without notice and an opportunity for all parties to be heard.

“*Filing*” is defined in subrule 10.12(3) except where otherwise specifically defined by law.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means.

“*Party*” means a party as defined in Iowa Code subsection 17A.2(8).

“*Personally investigated*” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

“*Proposed decision*” means the administrative law judge’s recommended findings of fact, conclusions of law, and decision and order in contested cases where the agency did not preside.

[ARC 3523C, IAB 12/20/17, effective 1/24/18; ARC 3524C, IAB 12/20/17, effective 1/24/18]

481—10.2(10A,17A) Time requirements. Time shall be computed as provided in Iowa Code subsection 4.1(34). For good cause, the administrative law judge may extend or shorten the time to take any action, except as provided otherwise by rule or law.

This rule is intended to implement Iowa Code sections 10A.801(7) and 17A.22.

[ARC 3523C, IAB 12/20/17, effective 1/24/18; ARC 3524C, IAB 12/20/17, effective 1/24/18]

481—10.3(10A) Requests for a contested case hearing. Requests for a contested case hearing are made to the agency with subject matter jurisdiction. That agency shall determine whether to initiate a contested case proceeding.

This rule is intended to implement Iowa Code section 10A.801(7).

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.4(10A) Transmission of contested cases.

10.4(1) In every proceeding filed with the division, the agency shall complete a transmittal form. The following information is required:

- a. The name of the transmitting agency;
- b. The name, address and telephone number of the contact person in the transmitting agency;
- c. The name or title of the proceeding, which may include a file number;
- d. Any agency docket or reference number;
- e. A citation to the jurisdictional authority of the agency regarding the matter in controversy;
- f. Any anticipated special features or requirements which may affect the hearing;
- g. Whether the hearing should be held in person or by telephone conference call;
- h. Any special legal or technical expertise needed to resolve the issues in the case;
- i. The names and addresses of all parties and their attorneys or other representatives;
- j. The date the request for a contested case hearing was received by the agency;
- k. A statement of the issues involved and a reference to statutes and rules involved;
- l. Any mandatory time limits that apply to the processing of the case;
- m. Earliest appropriate hearing date; and

n. Whether a petition or answer is required.

10.4(2) The agency and the department determine by agreement whether the agency or the department shall issue the notice of hearing.

a. If agreed by the agency and the department, the agency shall attach a notice of hearing to the transmittal form.

b. If the division by agreement issues the notice of hearing, the agency must provide the information required by Iowa Code section 17A.12(2) (except for the date, time and place of the hearing) for inclusion in the notice.

c. The agency, and not the division, shall prepare:

- (1) The citation to the jurisdictional authority of the agency regarding the matter in controversy;
- (2) A statement of the issues involved;
- (3) A reference to statutes and rules involved; and
- (4) The remaining information required by the transmittal form as stated in subrule 10.4(1).

10.4(3) The following documents shall be attached to the completed transmittal form when it is sent to the division:

- a.* A copy of the document showing the agency action in controversy; and
- b.* A copy of any document requesting a contested case hearing.

10.4(4) When a properly transmitted case is received, it is marked with the date of receipt by the division. An identifying number shall be assigned to each contested case upon receipt.

This rule is intended to implement Iowa Code section 10A.801(7).

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.5(17A) Notices of hearing.

10.5(1) Responsibility for issuance of notice of hearing and the manner of service shall be resolved by agreement between the division and the transmitting agency.

10.5(2) Notices of hearing shall contain the information required by Iowa Code subsection 17A.12(2) and any additional information required by statute or rule. Notices shall be served by first-class mail, unless otherwise required by statute or rule, or agreed pursuant to subrule 10.5(1).

This rule is intended to implement Iowa Code sections 17A.12(1) and 17A.12(2).

481—10.6(10A) Waiver of procedures. Unless otherwise precluded, the parties in a contested case may waive any provision of this chapter pursuant to Iowa Code section 17A.10.

This rule is intended to implement Iowa Code section 10A.801(7).

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.7(10A,17A) Telephone proceedings. A prehearing conference or a hearing may be held by telephone conference call pursuant to a notice of hearing or an order of the ALJ. The division shall determine the location of the parties and witnesses in telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, shall be considered when location is chosen.

481—10.8(10A,17A) Scheduling. Contested case hearings are scheduled according to the following criteria:

10.8(1) *Agency hearings.* The division shall promptly schedule hearings. The availability of an administrative law judge and any special circumstances shall be considered.

10.8(2) *Board hearings.* Boards are requested to consult with the division prior to scheduling hearings to determine the availability of an administrative law judge. The board shall determine the time and place of hearing.

481—10.9(17A) Disqualification.

10.9(1) An administrative law judge shall withdraw from contested cases for lack of impartiality or other legally sufficient cause including, but not limited to, cases where:

- a.* The ALJ has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the case;
- b.* The ALJ has prosecuted or advocated in connection with the case, the specific controversy underlying the case, or another pending factually related contested case or pending factually related controversy that may culminate in a contested case involving the same parties;
- c.* A private party is a client or has been a client of the ALJ within the past two years;
- d.* The ALJ has a financial interest in the case or any other interest that could be substantially affected by the outcome of the case; or
- e.* The ALJ, the ALJ's spouse, or relative within the third degree of relationship:
 - (1) Is a party to the case or an officer, director or trustee of a party;

- (2) Is a lawyer in the case;
- (3) Is known by the ALJ to have an interest that could be substantially affected by the outcome of the case; or
- (4) Is to the ALJ's knowledge likely to be a material witness in the case.

10.9(2) If an ALJ does not withdraw, the ALJ shall disclose on the record any information relevant to the grounds listed in subrule 10.9(1).

10.9(3) If a party asserts disqualification on any appropriate ground, including those listed in subrule 10.9(1), the party shall file an affidavit pursuant to Iowa Code subsection 17A.17(4). The affidavit must be filed with the division within 15 days of the date of the notice of hearing, or as soon as the reason alleged in the affidavit becomes known to the party, but in any case shall be filed prior to the hearing.

This rule is intended to implement Iowa Code section 17A.17.

481—10.10(10A,17A) Consolidation—severance.

10.10(1) *Consolidation.* The administrative law judge may, upon motion by any party or the ALJ's own motion, consolidate any or all matters at issue in two or more proceedings docketed under these rules where:

- a. There exist common parties or common questions of fact or law;
- b. Consolidation would expedite and simplify consideration of the issues; and
- c. Consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

At any time prior to the hearing, any party may on motion request that the matters not be consolidated, and the motion shall be granted for good cause shown.

10.10(2) *Severance.* The administrative law judge may, upon motion by any party or upon the ALJ's own motion, for good cause shown, order any proceeding or portion thereof severed.

This rule is intended to implement Iowa Code sections 10A.801(7) and 17A.22.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.11(10A,17A) Pleadings. Pleadings may be required by the notice of hearing or by order of the administrative law judge. If pleadings are required, they shall be filed as follows:

10.11(1) *Petition.* When an action of the agency is appealed and pleadings are required under this rule, the aggrieved party shall file the petition.

a. Any required petition shall be filed within 20 days of delivery of the notice of hearing, unless otherwise ordered.

b. The petition shall state in separately numbered paragraphs the following:

- (1) The relief demanded and the facts and law relied upon for relief;
- (2) The particular provisions of the statutes and rules involved;
- (3) On whose behalf the petition is filed; and
- (4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

10.11(2) *Answer.* If pleadings are required, the answer shall be filed within 20 days of service of the petition or notice of hearing, unless otherwise ordered.

a. Any party may move to dismiss or apply for a more definite, detailed statement when appropriate.

b. The answer shall show on whose behalf it is filed and specifically admit, deny or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and may contain as many defenses as the pleader may claim.

c. The answer shall state the name, address and telephone number of the person filing the answer and of the attorney representing that person, if any.

d. Any allegation in the petition not denied in the answer is considered admitted. Any defense not raised which could have been raised on the basis of facts known when the answer was written may be waived unless manifest injustice would result.

10.11(3) *Amendment.* Any petition, notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed may be allowed at the discretion of the ALJ or board if applicable. The presiding ALJ or board may impose terms or grant a continuance without terms, as a condition of allowing late amendments.

This rule is intended to implement Iowa Code sections 10A.801(7) and 17A.12(6) "a."

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.12(17A) Service and filing of documents.

10.12(1) *When service is required.* Except where otherwise specifically authorized by law, every pleading, motion, or other document filed in the contested case proceeding and every document relating to discovery in the

proceeding shall be served upon each of the parties to the proceeding, including the originating agency. Except for the notice of the hearing and an application for rehearing as provided in Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

10.12(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (email) a copy to the party or attorney at the party's or attorney's last-known mailing address, fax number, or email address. Service by first-class mail is complete upon mailing, except where otherwise specifically provided by statute, rule or order. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.

10.12(3) *Filing with the division.* After a matter has been assigned to the division, and until a proposed decision is issued, every pleading, motion, or other document shall be filed with the division, rather than the originating agency. All documents that are required to be served upon a party shall be filed simultaneously with the division.

a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

(1) Delivered to the division at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;

(2) Delivered to an established courier service for immediate delivery to the division;

(3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or

(4) Transmitted by facsimile (fax) to (515)281-4477, by electronic mail (email) to adminhearings@dia.iowa.gov, or by other electronic means approved by the division, as provided in subrule 10.12(3), paragraph "b."

b. All documents filed with the division pursuant to these rules, except a person's request or demand for a contested case proceeding (see Iowa Code subsection 17A.12(9)), may be filed by facsimile (fax), electronic mail (email), or other electronic means approved by the division. A document filed by fax, email, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, email, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, email, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, email, or other approved electronic means.

10.12(4) *Proof of mailing.* Adequate proof of mailing includes the following:

a. A legible United States postal service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, Administrative Hearings Division, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).

(date)

(signature)

[ARC 1993C, IAB 5/27/15, effective 7/1/15]

481—10.13(17A) Discovery.

10.13(1) Pursuant to Iowa Code section 17A.13, discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by rules of the agency or by a ruling by the ALJ, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

10.13(2) Any motion relating to discovery shall allege that the moving party has made a good faith attempt to resolve the issues raised by the motion with the opposing party. Motions in regard to discovery shall be ruled on by the ALJ. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 10.13(1). The ALJ may rule on the basis of the written motion and any response or may order argument on the motion.

This rule is intended to implement Iowa Code section 17A.13.

481—10.14(10A,17A) Subpoenas.**10.14(1) Issuance.**

a. Pursuant to Iowa Code subsection 17A.13(1), the division shall issue an agency subpoena to a party on request unless otherwise excluded pursuant to this rule. A request for a subpoena shall be in writing. The request may be made in person or by mail, facsimile (fax), electronic mail (email), or other electronic means approved by the division. The request shall include the names of the parties, the case number, the name and address of the requested witness, and a description or list of any documents or other items requested. The request shall also note the nature of the proceeding at which the witness is requested to testify (e.g., deposition, telephone hearing, or in-person hearing), the date and time of the proceeding, whether the witness is requested to appear in person or by telephone, the location of the proceeding if it is being conducted in a location other than the Wallace State Office Building, and the method of recording any deposition. A request for a subpoena shall be received by the division at least seven calendar days before the scheduled hearing. The request shall include the name, address, email address, and telephone number of the requesting party.

b. The division shall provide the subpoena to the requesting party by regular mail, fax, email, or other electronic means or allow for pickup during the department's regular business hours.

c. When authorized by law, an administrative law judge (ALJ) may issue a subpoena on the ALJ's own motion.

d. When there is reasonable ground to believe a subpoena is requested for the purpose of harassment, or that the subpoena requests irrelevant evidence or is untimely, the division may refuse to issue the subpoena. If the division refuses to issue a subpoena, the division shall provide a written statement of the ground for refusal. A party to whom a refusal is issued may obtain a prompt hearing before an ALJ regarding the refusal by filing with the division and serving on all parties a written request for a hearing, including a statement of testimony, documents, or other items expected to be elicited from the subpoenaed witness and a showing of relevancy to the proceeding.

e. The issuance of a subpoena by the division does not constitute a ruling by the ALJ that the subpoenaed witness may testify at the hearing or that a subpoenaed document may be admitted into evidence. A party seeking to call a subpoenaed witness to testify or seeking to introduce a subpoenaed document at a hearing must comply with any applicable requirement in statute, administrative rule, or ALJ order regarding the submission of witness or exhibit lists and the disclosure of proposed exhibits to opposing parties.

10.14(2) Form and contents.

a. *Requirements.* Any subpoena issued after the commencement of a contested case or other proceeding conducted by the division shall be issued on a form approved by the division and must:

(1) State that the subpoena is issued by the administrative hearings division of the department of inspections and appeals;

(2) State the title of the proceeding and its case number;

(3) Command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody or control; or permit the inspection of premises; and

(4) Include a guidance document for subpoenaed persons that has been approved by the division and that shall include the text of subrules 10.14(4) and 10.14(5).

b. *Command to attend a deposition; notice of the recording method.* A subpoena commanding attendance at a deposition must state the method for recording the testimony.

c. *Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information.* A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

d. *Command to produce; included obligations.* A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

10.14(3) Service of subpoenas.

a. The requesting party is responsible for arranging service of a subpoena prior to the hearing or deposition at which the testimony is commanded or the time at which the requested documents must be produced. The party is responsible for any cost associated with serving a subpoena and for the payment of witness fees and mileage expenses. If requested, pursuant to Iowa Code section 622.69, the witness fee is \$10 for a full day's attendance and is \$5 for attendance less than a full day, and mileage shall be paid for each mile actually traveled to participate in an in-person hearing or deposition at the rate established by the supreme court for witnesses in court proceedings, except that:

(1) No peace officer who receives a regular salary, or any other public official shall in any case receive fees as a witness for testifying in regard to any matter coming to the officer's or official's knowledge in the discharge of the officer's or official's official duties in a telephone hearing or an in-person hearing held in the county of the officer's or official's residence, except police officers who are called as witnesses when not on duty. An officer is on duty when paid by the officer's employing agency regardless whether the officer would regularly be on duty at the time of the hearing.

(2) A volunteer fire fighter, as defined in Iowa Code section 85.61, who is subpoenaed to appear as a witness in connection with a matter regarding an event or transaction which the fire fighter perceived or investigated in the course of duty as a volunteer fire fighter shall receive a fee only as provided for under Iowa Code section 622.71A.

b. Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the fees for one day's attendance and traveling fees to and from the proceeding. If the subpoena commands the production of documents, electronically stored information, or tangible things, then before it is served, a notice must be served on each party. For purposes of this rule, an employee of a state or local governmental agency is not a party merely because the agency is a party and may serve a subpoena unless the employee is also a named party in the proceeding or otherwise ineligible to serve a subpoena.

c. Permissible place of service. A subpoena may be served any place within the state of Iowa.

d. Proof of service. Proving service, when necessary, requires filing with the division a statement showing the date and manner of service and the names of persons served. The server must certify the statement in accordance with Iowa Code section 622.1.

10.14(4) *Protecting a person subject to a subpoena.*

a. *Avoiding undue burden or expense; sanctions.* A party or attorney responsible for serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The administrative law judge must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

b. *Command to produce materials or permit inspection.*

(1) Appearance not required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition or hearing.

(2) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. *Attendance.* Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. *Quashing or modifying a subpoena.*

(1) When required. On timely motion, the administrative law judge must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;

2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend a hearing anywhere within the state in which the person is served with a subpoena;

3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. Subjects a person to undue burden.

(2) When permitted. To protect a person subject to or affected by a subpoena, the administrative law judge may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information;

2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

3. A person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend a hearing.

(3) Specifying conditions as an alternative. In the circumstances described in subparagraph 10.14(4) “d”(2), the administrative law judge, instead of quashing or modifying a subpoena, may order appearance or production under specified conditions if the serving party:

1. Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
2. Ensures that the subpoenaed person will be reasonably compensated.

(4) A motion to quash or modify a subpoena shall be filed with the division and served on all parties of record pursuant to rule 481—10.12(17A), except that a motion filed by or on behalf of a person who is neither a party nor a party’s officer may be filed with the division and served only on the agency with a request for the division to provide a copy of the motion to all non-agency parties. The division may require a person requesting the division to provide the motion to a non-agency party to provide an additional paper copy of the motion and any attached exhibits for the division to provide to the non-agency party.

(5) The motion may be set for argument at the discretion of the administrative law judge. The administrative law judge may limit the participation of a person who is not a party, or the representative of such a person, to the extent necessary to protect any confidential information related to the proceeding.

10.14(5) Duties in responding to a subpoena.

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) Form for producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) Electronically stored information produced in only one form. The person responding need not produce the same electronically stored information in more than one form.

(4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the administrative law judge may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Iowa Rule of Civil Procedure 1.504(1)(b). The administrative law judge may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) Information withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. Expressly make the claim; and
2. Describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) Information produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

This rule is intended to implement Iowa Code sections 10A.104(6) and 17A.13.

[ARC 9616B, IAB 7/13/11, effective 8/17/11; ARC 2404C, IAB 2/17/16, effective 3/23/16]

481—10.15(10A,17A) Motions.

10.15(1) No technical form is required for motions. Prehearing motions, however, must be written, state the grounds for relief and state the relief sought. Any motion for summary judgment shall be filed in compliance with the requirements of Iowa Rules of Civil Procedure.

10.15(2) Any party may file a written resistance or response to a motion within 14 days after the motion is served, unless the time period is extended or shortened by rules of the agency or the administrative law judge. The ALJ may consider a failure to respond within the required time period in ruling on a motion.

10.15(3) The administrative law judge may schedule oral argument on any motion on the request of any party or the ALJ's own motion.

10.15(4) Except for good cause, all motions pertaining to the hearing must be filed and served at least ten days prior to the hearing date unless the time period is shortened or lengthened by rules of the agency or the administrative law judge.

481—10.16(10A,17A) Prehearing conference.

10.16(1) *Set by division.* The division may commence a contested case proceeding by issuing a notice of hearing that sets a prehearing conference to provide parties an opportunity to be heard on the selection of a date and time for the hearing on the merits and any other matters set forth in the notice or raised by the parties.

10.16(2) *Requested by party.* Any party may request a prehearing conference by filing and serving a written motion at least ten days prior to the date of the hearing. The motion must state any matters that the party seeks to address at the prehearing conference. If the administrative law judge grants the motion, the administrative law judge shall issue an order providing notice of the date and time of the prehearing conference to all parties.

10.16(3) *Ordered by administrative law judge.* The administrative law judge may order a prehearing conference if the administrative law judge determines on the administrative law judge's own motion that a prehearing conference should be held.

10.16(4) *Default.* If a party fails to appear or participate in a prehearing conference after proper service of notice, the administrative law judge may enter a default decision or proceed with the prehearing conference in the absence of the party.

This rule is intended to implement Iowa Code sections 10A.801(7) and 17A.12.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.17(10A) Continuances. Unless otherwise provided, application for continuance shall be made to the ALJ or to the division if an ALJ has not been assigned.

10.17(1) A written application for continuance shall:

- a. Be made before the hearing;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or their representative.

10.17(2) If the ALJ waives the requirement for a written motion, an oral application for continuance may be made. A written application shall be submitted no later than five days after the oral request. The ALJ may waive this requirement. No application for continuance will be made or granted ex parte without notice except in an emergency where notice is not feasible. The agency may waive notice of requests for a case or a class of cases.

10.17(3) Except where otherwise provided, a continuance may be granted at the discretion of the ALJ. The administrative law judge shall consider, in addition to the grounds stated in the motion:

- a. Any prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. Existence of emergency;
- e. Objection to the continuance;
- f. Any applicable state or federal statutes or regulations;
- g. The existence of a conflict in the schedules of counsel or parties or witnesses; and
- h. The timeliness of the request.

The ALJ may require documentation of any ground for continuance.

This rule is intended to implement Iowa Code section 10A.801(7).

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.18(10A,17A) Withdrawals. The party which requested an evidentiary hearing regarding agency action may withdraw prior to the hearing only in accordance with agency rules. Requests for withdrawal may be oral or written. If oral, the ALJ may require the party to submit a written request after the oral request. Unless otherwise provided, a withdrawal shall be with prejudice.

This rule is intended to implement Iowa Code sections 10A.801(7) and 17A.22.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.19(10A,17A) Intervention.

10.19(1) *Motion.* A motion for leave to intervene shall be served on all parties and shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on

the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within ten days of service of the motion to intervene unless the time period is extended or shortened by the ALJ.

10.19(2) *When filed.* Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the disposition of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if one is held, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. The intervenor shall be bound by any agreement, arrangement or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the hearing will be denied.

10.19(3) *Grounds for intervention.* The movant shall demonstrate that:

- a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;
- b. The movant will be aggrieved or adversely affected by a final order; and
- c. The interests of the movant are not being adequately represented by existing parties; or that it is otherwise entitled to intervene.

10.19(4) *Effect of intervention.* If appropriate, the ALJ may order consolidation of petitions and briefs and limit the number of representatives allowed to participate in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues to be raised or otherwise condition the intervenor's participation in the proceeding.

This rule is intended to implement Iowa Code sections 10A.801(7) and 17A.22.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.20(17A) Hearing procedures.

10.20(1) When an ALJ has been appointed as the presiding officer in a contested case, the ALJ may:

- a. Rule on motions;
- b. Preside at the hearing;
- c. Require the parties to submit briefs;
- d. Issue a proposed decision; and
- e. Issue orders and rulings to ensure the orderly conduct of the proceedings.

10.20(2) All objections to procedures, admission of evidence or any other matter shall be timely made and stated on the record.

10.20(3) Parties in a contested case have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations or associations may be represented by any member, officer, director or duly authorized agent. Any party may be represented by an attorney or as otherwise authorized by law.

10.20(4) Parties in a contested case have the right to introduce evidence on points at issue, to cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, to present evidence in rebuttal and to submit briefs.

10.20(5) The ALJ shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly or disruptive.

10.20(6) Witnesses may be sequestered during the hearing.

10.20(7) The ALJ shall conduct the hearing in the following manner:

- a. The ALJ shall give an opening statement briefly describing the nature of the proceeding;
- b. The parties shall be given an opportunity to present opening statements;
- c. Parties shall present their cases in the sequence determined by the ALJ;
- d. Each witness shall be sworn or affirmed by the ALJ or the court reporter, and be subject to examination. The ALJ may limit questioning consistent with Iowa Code section 17A.14;
- e. The ALJ has the authority to fully and fairly develop the record and may inquire into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material; and
- f. When all parties and witnesses have been heard, parties shall be given the opportunity to present final arguments.

This rule is intended to implement Iowa Code sections 17A.11 to 17A.14.

481—10.21(17A) Evidence.

10.21(1) The ALJ shall rule on admissibility of evidence in accordance with Iowa Code section 17A.14 and may take official notice of facts pursuant to Iowa Code subsection 17A.14(4).

10.21(2) Stipulation of facts is encouraged. The ALJ may make a decision based on stipulated facts.

10.21(3) Evidence shall be confined to the issues on which there has been fair notice prior to the hearing. The ALJ may take testimony on a new issue if the parties waive the right to notice and no other objection is made. If there is objection, the ALJ may refuse to hear the new issue and may make a decision on the original issue in the notice, or may grant a continuance to allow the parties adequate time to amend pleadings and prepare their cases on the additional issue.

10.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

10.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. The party objecting shall briefly state the grounds for the objection. The objection, the ruling on the objection and the reasons for the ruling shall be noted in the record. The ALJ may rule on the objection at the time it is made or may reserve a ruling until the written decision.

10.21(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony. If the evidence excluded consists of a document or exhibits, it shall be marked as part of an offer of proof and inserted in the record.

This rule is intended to implement Iowa Code sections 17A.11 to 17A.14.

481—10.22(17A) Default.

10.22(1) If a party fails to appear in a contested case proceeding after proper service of notice, the ALJ may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

10.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested an evidentiary hearing to contest adverse agency action which has already occurred, but has failed to file a required pleading or has failed to appear after proper service.

10.22(3) Where authorized by law, an ALJ may issue a default order.

481—10.23(17A) Ex parte communication.

10.23(1) Ex parte communication is prohibited as provided in Iowa Code section 17A.17. Parties or their representatives and ALJs shall not communicate directly or indirectly in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate. The ALJ may communicate with persons who are not parties as provided in subrule 10.23(2).

10.23(2) However, the ALJ may communicate with members of the agency and may have the aid and advice of persons other than those with a personal interest in, or those prosecuting or advocating in the case under consideration or a factually related case involving the same parties.

10.23(3) Any party or ALJ who receives prohibited communication shall submit the written communication or a summary of the oral communication for inclusion in the record. Copies shall be sent to all parties. There shall be opportunity to respond.

10.23(4) Prohibited communications may result in sanctions as provided in agency rule. In addition, the department, through the ALJ, may censure the person or may prohibit further appearance before the department.

This rule is intended to implement Iowa Code sections 17A.14 and 17A.17.

481—10.24(10A,17A) Decisions.

10.24(1) *Proposed decisions.* The ALJ shall issue a proposed decision which includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case.

The record in a contested case shall include all materials specified in Iowa Code subsection 17A.12(6). This shall include any request for a contested case hearing and other relevant procedural documents regardless of their form.

A ruling dismissing all of a party's claims or a voluntary dismissal is a proposed decision under Iowa Code section 17A.15.

10.24(2) *Review of proposed decisions.* Request for review of a proposed decision shall be made to the agency in which the contested case originated in the manner and within the time specified by that agency's rules. In contested cases in which the director of the department of inspections and appeals has final decision-making authority, request for review shall be made as provided in rule 481—9.3(10A,17A).

10.24(3) *Final decisions.* If there is no appeal from or review of the proposed decision, the ALJ's proposed decision becomes the final decision of the agency.

10.24(4) Agency reports. The agency shall send a copy of any request for review of a proposed decision to the division. The agency shall notify the division of the results of the review, the final decision and any judicial decision issued.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.25(10A,17A) DIA appeals. Rescinded **ARC 3523C**, IAB 12/20/17, effective 1/24/18.

481—10.26(10A,17A,272C) Board hearings. In scheduling hearings, boards should consult with the division to determine the availability of an ALJ. The board shall determine the time and place of hearing. At the request of the board, an ALJ shall assist in the conduct of a contested case.

10.26(1) The ALJ may rule on preliminary matters, including motions, and conduct prehearing conferences referred by the board.

10.26(2) The ALJ may conduct the hearing for the board, and may, when delegated by the board, perform duties including, but not limited to, the following:

- a. Open the record and receive appearances;
- b. Administer oaths and issue subpoenas;
- c. Enter the notice of hearing into the record;
- d. Enter the statement of charges into the record;
- e. Receive testimony and exhibits presented by the parties;
- f. Rule on objections and motions;
- g. Close the hearing; and
- h. Prepare findings of fact, conclusions of law and decision and order.

This rule is intended to implement Iowa Code sections 10A.202, 17A.11 and 272C.6.

481—10.27(10A) Transportation hearing fees. Rescinded **ARC 3523C**, IAB 12/20/17, effective 1/24/18.

481—10.28(10A) Recording costs. The division may provide a copy of the audio recording of the hearing or a printed transcript of the hearing when a record of the hearing is requested. The cost of providing the recording or preparing the transcript shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters shall bear the cost, unless otherwise provided by law.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—10.29(10A) Code of administrative judicial conduct. Rescinded **ARC 3524C**, IAB 12/20/17, effective 1/24/18. See 481—Chapter 15.

These rules are intended to implement Iowa Code sections 10A.104, 10A.202, 17A.10 to 17A.17, 17A.19, 17A.22, 272C.1 and 272C.6.

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¹ Effective date of first unnumbered paragraph of Ch 10, Scope and applicability, delayed 70 days by the Administrative Rules Review Committee at its 6/13/90 meeting; this paragraph rescinded IAB 8/22/90, effective 8/1/90.

CHAPTER 11
PROCEDURE FOR CONTESTED CASES INVOLVING PERMITS
TO CARRY WEAPONS AND ACQUIRE FIREARMS

481—11.1(17A,724) Definitions.

“*Agency*” means the commissioner of public safety or the sheriff of the county in which the aggrieved party resides.

“*Applicant*” means a person who has applied for a permit to carry weapons or acquire firearms.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5).

“*Division*” means the division of administrative hearings of the Iowa department of inspections and appeals.

“*Party*” means each person or agency named or admitted as a party.

“*Permittee*” means a person who has received a permit to carry weapons or acquire firearms.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11]

481—11.2(724) Appeals. An applicant or permittee may appeal a decision by an agency to deny an application for a permit to carry weapons or acquire firearms or to suspend or revoke a permit to carry weapons or acquire firearms.

11.2(1) *Written appeal.* The appeal shall be in writing or filed electronically pursuant to 481—Chapter 16 and should state the reasons for rebutting the denial, suspension, or revocation.

11.2(2) *Filing of appeal.* Within 30 days of the applicant’s or permittee’s receipt of the agency’s decision, the applicant or permittee shall file the appeal, a copy of the agency’s written decision, and a fee of \$10 with the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, 502 East 9th Street, Des Moines, Iowa 50319, or electronically pursuant to 481—Chapter 16.

11.2(3) *Service on the agency.* The applicant or permittee shall serve a copy of the appeal on the agency at the time the appeal is filed with the division.

11.2(4) *Denial of appeal.* The division may deny any appeal that does not meet each of the requirements in subrules 11.2(1) to 11.2(3).

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 6861C, IAB 2/8/23, effective 3/15/23]

481—11.3(17A,724) Notice of hearing. The division shall prepare and serve the notice of hearing.

11.3(1) In addition to the information set forth in Iowa Code section 17A.12(2), the notice of hearing shall contain the following information:

- a. Identification of the parties;
- b. Reference to the procedural rules governing the contested case proceeding;
- c. Identification of the administrative law judge, including the judge’s contact information;
- d. Requirements for the filing and service of a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding;
- e. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment;
- f. Notification that the applicant or permittee shall be required to pay the agency’s reasonable attorney fees and court costs if the agency’s decision is affirmed in the contested case proceeding or in subsequent judicial review of the proceeding, or if the applicant or permittee withdraws or dismisses the contested case proceeding or subsequent judicial review action; and
- g. Notification that the agency shall be required to pay the applicant’s or permittee’s reasonable attorney fees and court costs if it is determined in the contested case proceeding or in subsequent judicial review of the proceeding that the applicant or permittee is eligible to be issued or to possess the permit that was denied, suspended, or revoked.

11.3(2) Service of the notice of hearing shall be accomplished by first-class mail.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 3217C, IAB 7/19/17, effective 8/23/17; ARC 6861C, IAB 2/8/23, effective 3/15/23]

481—11.4(17A,724) Agency record.

11.4(1) Upon receipt of a copy of the notice of hearing, the agency shall file with the division:

- a. A copy of all documents used by the agency in reaching the decision; and
- b. A form identifying the name, address, and telephone number of the agency’s contact person or attorney representative.

11.4(2) The agency shall provide to the applicant or permittee a copy of all documents used by the agency in reaching the decision.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11]

481—11.5(17A) Contested case hearing. The hearing shall be conducted pursuant to the standards established in Iowa Code chapter 17A for contested case hearings. The hearing shall be held by telephone conference call, unless a party to the proceeding requests an in-person hearing from the administrative law judge no later than five days before the hearing. All in-person hearings shall be held at the division's headquarters in Des Moines, Iowa. If the administrative law judge grants an in-person hearing, the administrative law judge may allow one party to appear by telephone.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11]

481—11.6(17A,724) Service and filing of documents. Service and filing of documents shall be in accordance with rule 481—10.12(17A).

This rule is intended to implement Iowa Code section 724.21A.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 1993C, IAB 5/27/15, effective 7/1/15; ARC 6861C, IAB 2/8/23, effective 3/15/23]

481—11.7(17A) Witness lists and exhibits. If a party fails to serve on all parties and file with the division a witness list or any exhibit as set forth in the notice of hearing, the party may be precluded from calling the witness at hearing or introducing the exhibit(s) into the record at hearing.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 1993C, IAB 5/27/15, effective 7/1/15; ARC 6861C, IAB 2/8/23, effective 3/15/23]

481—11.8(17A) Evidence. Evidence shall be governed by rule 481—10.21(17A).

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 6861C, IAB 2/8/23, effective 3/15/23]

481—11.9(17A) Withdrawals and dismissals. A request for withdrawal or dismissal of the appeal may be made with the division prior to the hearing. Either request must be in writing or secured on the record.

11.9(1) Withdrawals. An applicant or permittee who requested a contested case proceeding may request a withdrawal of the appeal. Upon receipt of a request for withdrawal of the appeal, the administrative law judge shall issue an order dismissing the appeal and addressing the award of attorney fees pursuant to rule 481—11.11(10A).

11.9(2) Dismissals. An agency may request a dismissal of the appeal by agreeing to grant the entire relief sought by the applicant or permittee. The administrative law judge shall review a request for dismissal to determine whether it grants all relief requested in the appeal. If the request grants all relief requested in the appeal, the administrative law judge shall issue an order dismissing the appeal, ordering the agency to grant the relief requested, determining that no attorney fees are to be awarded, and closing the case.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 3217C, IAB 7/19/17, effective 8/23/17]

481—11.10(17A) Default. If a party fails to appear after proper service of notice, the administrative law judge may enter a default order against the party or may proceed with the hearing and make a decision in the absence of the party. The default order or decision made in the absence of the party shall address the award of attorney fees pursuant to rule 481—11.11(10A).

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 3217C, IAB 7/19/17, effective 8/23/17]

481—11.11(10A,724) Attorney fees, court costs, and contested case costs.

11.11(1) Attorney fees. In a decision rescinding or sustaining the agency's denial, suspension, or revocation of the permit or otherwise granting a request to withdraw or dismiss the appeal, the administrative law judge shall determine whether a party is entitled to an award of attorney fees consistent with paragraph 11.11(1)"a" or "b." If a party is entitled to an award, the decision shall inform the parties of the applicable procedure provided in paragraph 11.11(1)"c" for determining the amount of such an award unless the administrative law judge determines the amount of an award in the decision as provided for in paragraph 11.11(1)"f."

a. If the administrative law judge rescinds the agency's denial, suspension, or revocation of the permit and determines the applicant or permittee is eligible to be issued or to possess the permit, the applicant or permittee shall be awarded any reasonable attorney fees. A dismissal of the appeal at the request of the agency under subrule 11.9(2) is not a determination that the applicant or permittee is eligible to be issued or to possess the permit and does not entitle the applicant or permittee to an award of attorney fees. An applicant or permittee who is not represented by an attorney in the contested case proceeding is not entitled to an award of attorney fees.

b. If the administrative law judge affirms the agency's denial, suspension, or revocation of the permit or grants the applicant's or permittee's request to withdraw or dismiss the appeal, the agency shall be awarded any reasonable attorney fees. Such an award to the agency shall be made to the political subdivision of the state representing the sheriff or to the state department representing the commissioner as applicable. An agency is not entitled to an award of

attorney fees if the agency requests dismissal of the appeal under subrule 11.9(2) or if the agency is not represented by an attorney in the contested case proceeding.

c. Within 14 days of the date of a decision in which the administrative law judge determines that a party is entitled to an award of attorney fees, the party shall file a request for attorney fees and documentation supporting the request or a joint statement with the other party agreeing to the amount of reasonable attorney fees. Within 7 days of the filing of a request for attorney fees, the other party may file a resistance, including any relevant evidence, or a statement agreeing to the requested attorney fees. Upon request of either party or on the administrative law judge's own motion, a hearing may be scheduled on the issue of the attorney fee award.

d. If the party fails to file a request for attorney fees or a joint statement within 14 days, the administrative law judge shall issue an order determining that no attorney fees are awarded in the case. If the parties agree to the amount of reasonable attorney fees to be awarded, the administrative law judge shall issue an order awarding attorney fees consistent with the agreement. In all other cases, the administrative law judge shall issue a written order determining the reasonable attorney fees in the case.

e. The administrative law judge's decision is not final for purposes of rehearing under rule 481—11.14(17A) or judicial review under Iowa Code chapter 17A until the administrative law judge has issued a written decision determining the amount of any attorney fees to be awarded under this subrule or determining that no attorney fees are to be awarded.

f. If an application for rehearing under rule 481—11.14(17A) is denied, no additional attorney fees shall be awarded to either party. If an application for rehearing is granted, all the provisions of this subrule apply to the rehearing proceedings unless the only relief sought on rehearing relates to the attorney fee award. If the only relief sought relates to the attorney fee award, the order granting the application for rehearing shall provide that a party opposing the requested relief may file a resistance, including any relevant evidence, within 7 days of the date of the order and shall schedule a hearing or provide that a hearing may be scheduled upon the request of either party. In such a case, the administrative law judge shall issue a single final decision regarding the attorney fee award.

g. Any attorney fees awarded under this subrule shall be paid to the awarded party within 30 days of the issuance of an order determining the amount of attorney fees awarded unless an interested party seeks rehearing under rule 481—11.14(17A) or judicial review under Iowa Code chapter 17A or the parties agree to an alternative payment schedule. If a party seeks rehearing under rule 481—11.14(17A), the attorney fees shall be paid within 30 days of the denial of the application for rehearing or of any final decision awarding attorney fees after the grant of an application for rehearing. If a party seeks judicial review under Iowa Code chapter 17A, the attorney fee award shall be stayed pending resolution of the judicial review action. A party awarded attorney fees is responsible for taking any necessary action to enforce the award if payment is not made.

11.11(2) Court costs and attorney fees on judicial review. Any request for the award of court costs or for attorney fees incurred after the entry of an order determining reasonable attorney fees may only be made to the court in a judicial review action under Iowa Code chapter 17A, unless a party requests rehearing under rule 481—11.14(17A), in which case reasonable attorney fees may be awarded by the administrative law judge related to the request for rehearing consistent with paragraph 11.11(1) "f."

11.11(3) Contested case costs. Costs of the division in conducting a contested case proceeding arising out of a decision of the commissioner of public safety shall be charged to the department of public safety pursuant to Iowa Code section 10A.801(9).

This rule is intended to implement Iowa Code sections 10A.801 and 724.21A.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11; ARC 3217C, IAB 7/19/17, effective 8/23/17; ARC 6861C, IAB 2/8/23, effective 3/15/23]

481—11.12(724) Probable cause. Probable cause to deny an initial or renewal application for a permit to carry weapons or acquire firearms or to suspend or revoke a permit to carry weapons or acquire firearms means a reasonable ground exists for supposing that the basis for the denial, suspension or revocation is well-founded.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11]

481—11.13(724) Clear and convincing evidence. Clear and convincing evidence means there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence.

[ARC 9299B, IAB 12/29/10, effective 1/1/11; ARC 9400B, IAB 3/9/11, effective 4/13/11]

481—11.14(17A) Rehearing. A request for rehearing may be filed in accordance with Iowa Code section 17A.16(2).

This rule is intended to implement Iowa Code sections 724.21A and 17A.16.

[ARC 1993C, IAB 5/27/15, effective 7/1/15; ARC 3217C, IAB 7/19/17, effective 8/23/17; ARC 6861C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code section 724.21A.

[Filed Emergency ARC 9299B, IAB 12/29/10, effective 1/1/11]

[Filed ARC 9400B (Notice ARC 9298B, IAB 12/29/10), IAB 3/9/11, effective 4/13/11]

[Filed ARC 1993C (Notice ARC 1934C, IAB 4/1/15), IAB 5/27/15, effective 7/1/15]

[Filed ARC 3217C (Notice ARC 3073C, IAB 5/24/17), IAB 7/19/17, effective 8/23/17]

[Filed ARC 6861C (Notice ARC 6745C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

CHAPTERS 12 to 14
Reserved

CHAPTER 15
IOWA CODE OF ADMINISTRATIVE JUDICIAL CONDUCT
[Prior to 12/20/17, see rule 481—10.29(10A)]

481—15.1(10A) Canon 1. A presiding officer shall uphold and promote the independence, integrity, and impartiality of the administrative judiciary and shall avoid impropriety and the appearance of impropriety.

15.1(1) *Compliance with the law.* A presiding officer shall comply with the law, including the Iowa Code of Administrative Judicial Conduct, hereafter referred to as “this Code.”

15.1(2) *Promoting confidence in the administrative judiciary.* A presiding officer shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the administrative judiciary and shall avoid impropriety and the appearance of impropriety.

15.1(3) *Avoiding abuse of the prestige of an administrative judicial position.* A presiding officer shall not abuse the prestige of the administrative judicial position to advance the personal or economic interests of the presiding officer or others, or allow others to do so.

[ARC 3524C, IAB 12/20/17, effective 1/24/18]

481—15.2(10A) Canon 2. A presiding officer shall perform administrative judicial duties impartially, competently, and diligently.

15.2(1) *Giving precedence to administrative judicial duties.* The administrative judicial duties, as prescribed by law, shall take precedence over all of a presiding officer’s personal and extrajudicial activities.

15.2(2) *Impartiality and fairness.* A presiding officer shall uphold and apply the law, and shall perform all administrative judicial duties fairly and impartially.

15.2(3) *Bias, prejudice, and harassment.*

a. A presiding officer shall perform all administrative judicial and other duties without bias or prejudice.

b. A presiding officer shall not, in the performance of administrative judicial duties, by words or conduct manifest bias or prejudice or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit others subject to the presiding officer’s direction and control to do so.

c. A presiding officer shall require lawyers and party representatives in proceedings before the presiding officer to refrain from manifesting bias or prejudice or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, party representatives, or others.

d. The restrictions of paragraphs 15.2(3) “*b*” and “*c*” do not preclude presiding officers, lawyers, or party representatives from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

15.2(4) *External influences on administrative judicial conduct.*

a. A presiding officer shall not be swayed by public clamor or fear of criticism.

b. A presiding officer shall not permit family, social, political, financial, or other interests or relationships to influence the presiding officer’s administrative judicial conduct or judgment.

c. A presiding officer shall not convey or permit others to convey the impression that any person or organization is in a position to influence the presiding officer.

15.2(5) *Competence, diligence, and cooperation.*

a. A presiding officer shall perform administrative judicial and other duties competently and diligently.

b. A presiding officer shall cooperate with other presiding officers and other executive branch employees in the administration of agency business.

15.2(6) *Ensuring the right to be heard.*

a. A presiding officer shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer or authorized representative, the right to be heard according to law.

b. A presiding officer may encourage parties to a proceeding and their lawyers or authorized representatives to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

15.2(7) *Responsibility to decide.* A presiding officer shall hear and decide matters assigned to the presiding officer, except when disqualification is required by subrule 15.2(11) or other law.

15.2(8) *Decorum and demeanor.*

a. A presiding officer shall require order and decorum in proceedings before the presiding officer.

b. A presiding officer shall be patient, dignified, and courteous to parties, board members, witnesses, lawyers, party representatives, agency staff, agency officials, and others with whom the presiding officer deals in an official capacity, and shall require similar conduct of lawyers, party representatives, and others subject to the presiding officer's direction and control.

15.2(9) *Ex parte communications.*

a. A presiding officer shall not initiate, permit, or consider ex parte communications, or consider other communications made to the presiding officer outside the presence of the parties or their lawyers, concerning a pending matter or impending matter, except as permitted by Iowa Code section 17A.17.

b. A presiding officer shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may be officially noticed pursuant to Iowa Code section 17A.14.

15.2(10) *Statements on pending and impending cases.*

a. A presiding officer shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a pending matter or impending matter before the presiding officer or another presiding officer in the same agency, or make any nonpublic statement that might substantially interfere with a fair hearing.

b. A presiding officer shall not, in connection with cases, controversies, or issues that are likely to come before the presiding officer, make pledges, promises, or commitments that are inconsistent with the impartial performance of the presiding officer's adjudicative duties.

c. A presiding officer shall require others subject to the presiding officer's direction and control to refrain from making statements that the presiding officer would be prohibited from making by paragraphs 15.2(10) "a" and "b."

d. Notwithstanding the restrictions in paragraph 15.2(10) "a," a presiding officer may explain agency procedures and may comment on any proceeding in which the presiding officer is a party in a personal capacity.

e. Subject to the requirements of paragraph 15.2(10) "a," a presiding officer may respond directly or through a third party to allegations in the media or elsewhere concerning the presiding officer's conduct in a matter.

15.2(11) *Disqualification.*

a. A presiding officer shall disqualify himself or herself in any proceeding in which the presiding officer's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The presiding officer has a personal bias or prejudice concerning a party or a party's lawyer or other representative, or has personal knowledge of facts that are in dispute in the proceeding.

(2) The presiding officer knows that the presiding officer, the presiding officer's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

1. A party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;
2. Acting as a lawyer or party representative in the proceeding;
3. A person who has more than a de minimis interest that could be substantially affected by the proceeding; or
4. Likely to be a material witness in the proceeding.

(3) The presiding officer knows that he or she, individually or as a fiduciary, or the presiding officer's spouse, domestic partner, parent, or child, or any other member of the presiding officer's family residing in the presiding officer's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The presiding officer, while a presiding officer, has made a public statement, other than in an agency proceeding, decision, opinion, or order, that commits or appears to commit the presiding officer to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The presiding officer:

1. Served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

2. Served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy; or

3. Was a material witness concerning the matter.

(6) The presiding officer personally investigated, prosecuted, or advocated in connection with the matter, the specific controversy underlying the matter, or another pending factually related matter, or pending factually related controversy that may culminate in a contested case, involving the same parties, or is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy, involving the same parties. But the presiding officer is not required to disqualify himself or herself solely because the presiding officer determined there was probable cause to initiate the proceeding.

b. A presiding officer shall keep informed about the presiding officer's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the presiding officer's spouse or domestic partner and minor children residing in the presiding officer's household.

c. A presiding officer subject to disqualification under this rule, other than for bias or prejudice under subparagraph 15.2(11) "a"(1), may disclose on the record the basis of the presiding officer's disqualification and may ask the parties and their lawyers or representatives to consider, outside the presence of the presiding officer, whether to waive disqualification. If, following the disclosure, the parties and lawyers or party representatives agree, without participation by the presiding officer, that the presiding officer should not be disqualified, the presiding officer may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

15.2(12) *Supervisory duties.*

a. A presiding officer shall require others subject to the presiding officer's direction and control to act in a manner consistent with the presiding officer's obligations under this Code.

b. A presiding officer with supervisory authority for the performance of other presiding officers shall take reasonable measures to ensure that those presiding officers properly discharge their administrative judicial responsibilities, including the prompt disposition of matters before them.

15.2(13) Reserved.

15.2(14) *Disability and impairment.* A presiding officer having a reasonable belief that the performance of a lawyer, party representative, or another presiding officer is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or employee assistance program.

15.2(15) *Responding to administrative judicial and lawyer misconduct.*

a. A presiding officer having knowledge that another presiding officer has committed a violation of this Code that raises a substantial question regarding the presiding officer's honesty, trustworthiness, or fitness as a presiding officer in other respects shall inform the appropriate authority.

b. A presiding officer having knowledge that a lawyer has committed a violation of the Iowa Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

c. A presiding officer who receives information indicating a substantial likelihood that another presiding officer has committed a violation of this Code shall take appropriate action.

d. A presiding officer who receives information indicating a substantial likelihood a lawyer has committed a violation of the Iowa Rules of Professional Conduct shall take appropriate action.

e. This rule does not require disclosure of information gained by a presiding officer while participating in an approved lawyers assistance program.

15.2(16) *Cooperation with disciplinary authorities.*

a. A presiding officer shall cooperate and be candid and honest with a lawyer disciplinary agency or other appropriate authority investigating a violation of this Code or the Iowa Rules of Professional Conduct.

b. A presiding officer shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a presiding officer or a lawyer.

[ARC 3524C, IAB 12/20/17, effective 1/24/18]

481—15.3(10A) Canon 3. An administrative law judge shall conduct the administrative law judge's personal and extrajudicial activities to minimize the risk of conflict with administrative judicial obligations.

15.3(1) *Extrajudicial activities in general.* An administrative law judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, an administrative law judge shall not:

a. Participate in activities that will interfere with the proper performance of the administrative law judge's administrative judicial duties;

b. Participate in activities that will lead to frequent disqualification of the administrative law judge;

c. Participate in activities that would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality;

d. Engage in conduct that would appear to a reasonable person to be coercive; or

e. Make use of agency premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, the provision of legal services, or the administration of justice, or unless such additional use is permitted by law.

15.3(2) Reserved.

15.3(3) *Testifying as a character witness.* An administrative law judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed.

15.3(4) *Appointments to governmental positions.* An administrative law judge shall not accept appointment to a governmental committee, board, commission, or other governmental position that would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality or would lead to frequent disqualification of the administrative law judge.

15.3(5) *Use of nonpublic information.* An administrative law judge shall not intentionally disclose or use nonpublic information acquired in an administrative judicial capacity for any purpose unrelated to the administrative law judge's administrative judicial or other duties.

15.3(6) *Affiliation with discriminatory organizations.*

a. An administrative law judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. An administrative law judge's membership in a religious organization as a lawful exercise of the freedom of religion is not prohibited.

b. An administrative law judge shall not use the benefits or facilities of an organization if the administrative law judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph 15.3(6)"a." An administrative law judge's attendance at an event in a facility of an organization that the administrative law judge is not permitted to join is not a violation of this rule when the administrative law judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

15.3(7) *Participation in educational, religious, charitable, fraternal, or civic organizations and activities.*

a. Subject to the requirements of subrule 15.3(1), an administrative law judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, the provision of legal services, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(1) Assisting such an organization or entity in planning related to fund-raising, volunteering goods or services at fund-raising events, and participating in the management and investment of the organization's or entity's funds;

(2) Soliciting contributions for such an organization or entity, but only from members of the administrative law judge's family, or from other administrative law judges or coworkers in the administrative law judge's immediate office over whom the administrative law judge does not exercise supervisory authority;

(3) Appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the administrative law judge may participate only if the event concerns the law, the legal system, the provision of legal services, or the administration of justice;

(4) Making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, the provision of legal services, or the administration of justice; and

(5) Serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

1. Will be engaged in proceedings that would ordinarily come before the administrative law judge; or

2. Will frequently be engaged in adversary proceedings before the agency in which the administrative law judge serves.

b. An administrative law judge may encourage lawyers to provide pro bono publico legal services.

c. Subject to the requirements of subrule 15.3(1), an administrative law judge may:

(1) Provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice and convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of legal services, or the administration of justice.

(2) Endorse projects and programs directly related to the law, the legal system, the provision of legal services, and the administration of justice to those coming before the courts or the administrative judiciary.

(3) Participate in programs concerning the law or which promote the administration of justice.

15.3(8) *Appointments to fiduciary positions.*

a. An administrative law judge shall not accept appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person

of a member of the administrative law judge's family, and then only if such service will not interfere with the proper performance of administrative judicial duties.

b. An administrative law judge shall not serve in a fiduciary position if the administrative law judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the administrative law judge, or if the estate, trust, or ward becomes involved in adversary proceedings before the agency in which the administrative law judge serves.

c. An administrative law judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to an administrative law judge personally.

d. If a person who is serving in a fiduciary position becomes an administrative law judge, he or she must comply with this subrule as soon as reasonably practicable, but in no event later than six months after becoming an administrative law judge.

15.3(9) *Services as arbitrator or mediator.* An administrative law judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the administrative law judge's official duties unless expressly authorized by law.

15.3(10) *Practice of law.* An administrative law judge shall not engage in the private practice of law. An administrative law judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the administrative law judge's family, but is prohibited from serving as the family member's lawyer before the agency in which the administrative law judge serves. An administrative law judge serving in the administrative hearings division of the department of inspections and appeals is prohibited from serving as the family member's lawyer in any proceeding in which another administrative law judge serving in the division is the presiding officer, regardless of whether the proceeding is being conducted on behalf of the department of inspections and appeals or another state agency.

15.3(11) *Financial, business, or remunerative activities.*

a. An administrative law judge may hold and manage investments of the administrative law judge and members of the administrative law judge's family.

b. An administrative law judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that an administrative law judge may manage or participate in:

(1) A business closely held by the administrative law judge or members of the administrative law judge's family; or

(2) A business entity primarily engaged in investment of the financial resources of the administrative law judge or members of the administrative law judge's family.

c. An administrative law judge shall not engage in financial activities permitted under paragraphs 15.3(11) "a" and "b" if they will:

(1) Interfere with the proper performance of administrative judicial duties;

(2) Lead to frequent disqualification of the administrative law judge;

(3) Involve the administrative law judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the agency in which the administrative law judge serves; or

(4) Result in violation of other provisions of this Code.

15.3(12) *Compensation for extrajudicial activities.* An administrative law judge may accept reasonable compensation for extrajudicial activities permitted by this Code and other law unless such acceptance would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality.

15.3(13) *Acceptance of gifts, loans, bequests, benefits, or other things of value.* An administrative law judge, an administrative law judge's spouse, and an administrative law judge's dependent child shall not accept or receive any gift, loan, bequest, benefit, or other thing of value, if acceptance or receipt is prohibited by Iowa Code chapter 68B or any other law or if acceptance or receipt would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality.

15.3(14) *Reimbursement of expenses and waivers of fees or charges.*

a. Unless otherwise prohibited by subrules 15.3(1) and 15.3(13), Iowa Code chapter 68B, or other law, an administrative law judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the administrative law judge's employing entity, if the expenses or charges are associated with the administrative law judge's participation in extrajudicial activities permitted by this Code.

b. Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the administrative law judge and, when appropriate to the occasion, by the administrative law judge's spouse, domestic partner, or guest.

481—15.4(10A) Canon 4. An administrative law judge shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the administrative judiciary.

15.4(1) *Political and campaign activities of administrative law judges.*

a. Except as permitted by law, an administrative law judge shall not:

- (1) Act as a leader in, or hold an office in, a political organization;
- (2) Make speeches on behalf of a political organization;
- (3) Publicly endorse or oppose a candidate for any public office;
- (4) Solicit funds for, pay an assessment to, or make a contribution to a political organization, a candidate for judicial retention, or a candidate for public office;
- (5) Attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office; or
- (6) Participate in a precinct caucus, except as provided for in paragraph 15.4(1)“*b.*”

b. Paragraph 15.4(1)“*a.*” does not prohibit an administrative law judge from participating in a precinct caucus merely to vote for, or support in the delegate selection process, a candidate for the office of President of the United States, provided that the administrative law judge does not speak publicly on behalf of or against a candidate, encourage other caucus participants to support or oppose a candidate, or otherwise engage in conduct that is inconsistent with the independence, integrity, or impartiality of the administrative judiciary.

c. An administrative law judge shall take reasonable measures to ensure that other persons do not undertake, on behalf of the administrative law judge, any activities prohibited under paragraph 15.4(1)“*a.*”

15.4(2) to 15.4(4) Reserved.

15.4(5) *Activities of administrative law judges who become candidates for nonjudicial office.*

a. Upon becoming a candidate for nonjudicial elective office, an administrative law judge shall resign from the administrative law judge position unless permitted by law to continue to hold the administrative law judge position.

b. Upon becoming a candidate for nonjudicial appointive office, an administrative law judge is not required to resign from the administrative law judge position, provided that the administrative law judge complies with the other provisions of this Code.

[ARC 3524C, IAB 12/20/17, effective 1/24/18]

481—15.5(10A) Scope, definitions, and application.

15.5(1) *Scope.*

a. The Iowa Code of Administrative Judicial Conduct consists of four canons, each of which is codified as the introductory paragraph of an administrative rule, and numbered rules under each canon, which are codified as subrules. Subrule 15.5(3) establishes when the various rules apply to a presiding officer or an administrative law judge.

b. The canons state overarching principles of judicial ethics that all administrative law judges and presiding officers, as applicable, must observe. Although an administrative law judge or presiding officer may be disciplined only for violating an applicable rule, the canons provide important guidance in interpreting the rules. Where a rule contains a permissive term, such as “may” or “should,” the conduct being addressed is committed to the personal and professional discretion of the administrative law judge or presiding officer in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

c. Consistent with the requirement of Iowa Code section 10A.801(7)(d), this Code is similar in function and substantially equivalent to the Iowa Code of Judicial Conduct adopted by the Iowa Supreme Court and contained in Chapter 51 of the Iowa Court Rules. The Iowa Code of Judicial Conduct includes accompanying comments to the rules that may provide useful guidance regarding the purpose, meaning, and proper application of the corresponding rule in this Code. The comments contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. The comments may also identify aspirational goals for administrative law judges and presiding officers. To implement fully the principles of this Code as articulated in the canons, administrative law judges and presiding officers should strive to exceed the standards of conduct established by the rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the administrative judicial position.

d. The rules of this Code are rules of reason that should be applied consistent with constitutional requirements, statutes, administrative rules, and decisional law, and with due regard for all relevant circumstances. The rules should not be interpreted to impinge upon the essential independence of administrative law judges and presiding officers in making administrative judicial decisions.

e. Although the black letter of the rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined

by the presiding officer's appointing authority through a reasonable and reasoned application of the rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the administrative judicial system or others.

f. This Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for parties to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a presiding officer.

15.5(2) Definitions. For purposes of this chapter, the following definitions apply:

"Administrative law judge" means a person who acts as a presiding officer under the authority of Iowa Code section 17A.11(1) who is not an agency head or a member of a multimembered agency head. This includes, but is not limited to, administrative law judges employed by the administrative hearings division of the department of inspections and appeals, the unemployment insurance appeals bureau of Iowa workforce development, the public employment relations board, and the board of parole, as well as deputy workers' compensation commissioners in the division of workers' compensation of Iowa workforce development.

"Affiliate" and *"affiliated"* mean any person, domestic or foreign, that controls, is controlled by, or is under common control with any other person.

"Appropriate authority" means the authority having responsibility for the initiation of disciplinary process in connection with the violation to be reported.

"Associate" and *"associated"* means any person who employs, is employed by, or is under common employment with another person; any person who acts in cooperation, consultation, or concert with, or at the request of, another person; and any spouse, domestic partner, or person within the third degree of relationship of any of the foregoing.

"Contribution" means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance which, if obtained by the recipient otherwise, would require a financial expenditure.

"Control" and *"controlled"* each refers to the power of one person to exercise, directly or indirectly or through one or more persons, a dominating, governing, or controlling influence over another person, whether by contractual relationship (including without limitation a debtor-creditor relationship), by family relationship, by ownership, dominion over, or power to vote any category or voting interest (including without limitation shares of common stock, shares of voting preferred stock, and partnership interests), or by exercising (or wielding the power to exercise) in any manner dominion over a majority of directors, partners, trustees, or other persons performing similar functions. See definition of "affiliate" and "affiliated."

"De minimis," in the context of interests pertaining to disqualification of an administrative law judge, means an insignificant interest that could not raise a reasonable question regarding the administrative law judge's impartiality.

"Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married.

"Economic interest" means ownership of more than a de minimis legal or equitable interest. Except for situations in which the presiding officer participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a presiding officer, it does not include:

1. An interest in the individual holdings within a mutual or common investment fund;
2. An interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the presiding officer or the presiding officer's spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
3. A deposit in a financial institution or deposits or proprietary interests the presiding officer may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
4. An interest in the issuer of government securities held by the presiding officer.

"Fiduciary" includes relationships such as executor, administrator, trustee, or guardian.

"Impartial," "impartiality," and *"impartially"* mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a presiding officer or administrative law judge.

"Impending matter" is a matter that is imminent or expected to occur in the near future.

"Impropropriety" includes conduct that violates the law, court rules, or provisions of the Iowa Code of Administrative Judicial Conduct, and conduct that undermines a presiding officer's or administrative law judge's independence, integrity, or impartiality.

"Independence" means a presiding officer's or administrative law judge's freedom from influence or controls other than those established by law.

"Integrity" means probity, fairness, honesty, uprightness, and soundness of character.

“Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.

“Law” encompasses administrative rules and regulations, court rules, ordinances, statutes, constitutional provisions, and decisional law.

“Member of the administrative law judge’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the administrative law judge maintains a close familial relationship.

“Member of the presiding officer’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the presiding officer maintains a close familial relationship.

“Member of a presiding officer’s family residing in the presiding officer’s household” means any relative of a presiding officer by blood or marriage, or a person treated by a presiding officer as a member of the presiding officer’s family, who resides in the presiding officer’s household.

“Nonpublic information” means information that is not available to the public. “Nonpublic information” may include, but is not limited to, information that is confidential or sealed by statute or court or administrative order or impounded or communicated in camera.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process, including director review and judicial review, until final disposition.

“Person” means any natural or juridical person, including without limitation any corporation, limited liability company, partnership, trust, union, or other labor organization; any branch, division, department, or local unit of any of the foregoing; any political committee, party, or organization; or any other organization or group of persons.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office.

“Presiding officer” means a person who acts as a presiding officer of a contested case proceeding under the authority of Iowa Code section 17A.11(1).

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece.

15.5(3) Application.

a. The provisions of the Iowa Code of Administrative Judicial Conduct apply to all persons who act as presiding officers under the authority of Iowa Code section 17A.11(1), except as specified in paragraph 15.5(3) “*b*” for agency heads or members of multimembered agency heads. Canons and rules that apply to all presiding officers use the terminology “presiding officer” in their text. This Code only applies to an agency head or a member of a multimembered agency head who actually acts as a presiding officer and does not apply merely because the agency head or member of a multimembered agency head is authorized to serve as the presiding officer when another person serves as the presiding officer.

b. The provisions of rules 481—15.3(10A) and 481—15.4(10A) of this Code do not apply to agency heads or members of multimembered agency heads. These provisions apply only to administrative law judges and thus the terminology “administrative law judge” is used in their text.

c. This Code does not apply to persons who participate only in the making of a final decision in a contested case without serving as a presiding officer pursuant to Iowa Code section 17A.11(1) in that contested case unless a statute or administrative rule requires such a person to abide by this Code or a particular provision of this Code. This Code may nevertheless provide useful ethical guidance for a person participating in the making of a final decision in a contested case.

[ARC 3524C, IAB 12/20/17, effective 1/24/18]

These rules are intended to implement Iowa Code section 10A.801.

[Filed ARC 3524C (Notice ARC 3408C, IAB 10/25/17), IAB 12/20/17, effective 1/24/18]

CHAPTER 16

ADMINISTRATIVE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

481—16.1(10A) Scope. This chapter governs the filing of documents through the division of administrative hearings' administrative electronic document management system (AEDMS). To the extent the rules in this chapter are inconsistent with any other administrative rule of the division, the rules in this chapter shall govern. Pursuant to Iowa Code section 10A.802, these rules shall prevail over any other law, including Iowa Code chapter 17A, or agency rule that specifies the method, manner, or format for sending, receiving, serving, retaining, or creating paper records or other documents related to a contested case proceeding, including but not limited to a request or demand for a contested case proceeding, a notice of hearing, and a proposed or final decision.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.2(10A) Definitions.

"AEDMS" means the administrative electronic document management system, the division's electronic filing and case management system.

"Agency record" means for all cases the electronic files maintained in AEDMS, filings the division maintains in paper form, and exhibits and other materials filed with or delivered in relation to a contested case hearing.

"Confidential" means agency files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

"Division" means the division of administrative hearings in the department of inspections and appeals.

"Electronic filing" means the receipt of a document submitted to AEDMS for filing, as confirmed by the transmission of the notice of electronic filing.

"Electronic record" means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

"Electronic service" means the AEDMS electronic transmission of a link where registered users of AEDMS who are entitled to receive notice of the filing may view and download filed documents.

"File stamp" means the date and time that is affixed at the top of the first page of a document when it is filed in AEDMS.

"Nonelectronic filing" means a process by which a paper document or other nonelectronic item is filed with the division.

"Notice of electronic filing" means a document generated by AEDMS when a document is electronically filed.

"PDF" means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

"Protected information" means personal information, the nature of which warrants protection from unlimited public access, including but not limited to:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information.

"Public" refers to agency files, documents, or information that is not confidential or protected.

"Registered user" means an individual who has registered for an electronic filing account through AEDMS. A registered user can electronically file documents and electronically view and download files through the use of a username and password.

"Signature" means the following:

1. For a registered user electronically filing a document in AEDMS, "signature" means the registered user's username and password accompanied by one of the following approved signature representations:

- "Digitized signature" means an electronically embeddable image of a person's handwritten signature;
- "Electronic signature" means an electronic symbol ("/s/" or "/registered user's name/") executed or adopted by a person with the intent to sign the document; or
- "Nonelectronic signature" means a handwritten signature applied to an original document that is then scanned and electronically filed.

2. For a party signing a document that another registered user will electronically file, “signature” means the signatory’s name affixed to the document as a digitized or nonelectronic signature.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.3(10A) Registration, username, and passwords.

16.3(1) Registration.

a. *Registration.* Every individual filing documents or viewing or downloading filed documents in the AEDMS must register as a registered user of AEDMS.

b. *Changes in registered user’s contact information.* If a registered user’s email address, mailing address, or telephone number changes, the user must promptly make the necessary changes to the registered user’s information contained in AEDMS. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

c. *Duties of registered user.* Each registered user shall ensure that the user’s email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

d. *Division-initiated registration.* The division may complete the registration process on behalf of an individual in certain instances and email the username and password to the user. When the division completes the registration process, the user is required to promptly log in and change the password. Following initial notification regarding account registration, the user is required to promptly update and maintain accurate contact information for the AEDMS account.

16.3(2) Use of username and password. A registered user is responsible for all documents filed with the user’s username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

16.3(3) Username and password security. If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username/password shall notify the division promptly.

16.3(4) Denial of access. The agency may refuse to allow an individual to electronically file or download information in AEDMS due to misuse, fraud, or other good cause.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.4(10A) Electronic filing not mandatory.

16.4(1) Electronic filing not mandatory. Registration and filing through AEDMS, although encouraged, is not mandatory, and the division shall still accept the traditional filing of paper or other electronic documents as set forth in 481—paragraph 10.12(3) “a.”

16.4(2) What constitutes filing. The electronic transmission of a document to AEDMS consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes filing of the document.

16.4(3) Electronic file stamp. Documents filed through AEDMS are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.5(10A) Filing of paper documents.

16.5(1) Conversion of paper or other electronic documents filed. When a party files a document other than through AEDMS, the division will convert the filed documents to an electronic format viewable to registered users of AEDMS. The original of converted documents need not be retained by the division.

16.5(2) Form of paper documents. Each document must be printed on only one side and be delivered to the division with no tabs, staples, or permanent clips but may be organized with paperclips, clamps, or some other type of temporary fastener or may be delivered to the division in an appropriate file folder.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.6(10A) Date and time of filing.

16.6(1) Date of filing. An electronic filing may be made any day of the week, including holidays and weekends, and any time of the day AEDMS is available.

16.6(2) Time of filing. A document is timely filed if it is filed before midnight on the date the filing is due.

16.6(3) Rejected filing. The division may reject electronic filings that do not meet the requirements of this chapter. A rejected electronic filing is not filed. When an electronic filing is rejected, the filer will be electronically notified of the rejection and the reason for the rejection. In such instances, the date and time of filing will be when the filer submits a corrected document and it is approved.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.7(10A) Signatures.

16.7(1) *Registered user.* A username and password accompanied by a digitized, electronic, or nonelectronic signature shall serve as the registered user's signature on all electronically filed documents.

16.7(2) *Format.* Any AEDMS filing requiring a signature must be signed with either a nonelectronic signature, an electronic signature, or a digitized signature. The following information about the person shall be included under the person's signature:

- a. Name;
- b. Name of firm or governmental agency;
- c. Mailing address;
- d. Telephone number; and
- e. Email address.

16.7(3) *Multiple signatures.* By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.8(10A) Redaction of electronic documents.

16.8(1) *Responsibilities of filers generally.*

- a. It is the responsibility of the filer to ensure that a confidential document is certified as confidential.
- b. It is the responsibility of the filer to ensure that protected information is omitted or redacted from documents before the documents are filed. This responsibility exists even when the filer did not create the document.
- c. The division will not review filings to determine whether appropriate omissions or redactions have been made or whether a document has been properly certified as confidential.

16.8(2) *Omission and redaction requirements.*

- a. *Protected information that is not material to the proceedings.* A filer may redact protected information from documents filed with the division when the information is not material to the proceedings.
- b. *Protected information that is material to the proceedings.* When protected information is material to the proceedings, a filer must certify the document as confidential when submitting the filing to the division.
- c. *Protected information in a confidential document.* Parties are not required to redact protected information from documents that are certified as confidential.

16.8(3) *Information that may be redacted.* A filer may redact the following information from documents available to the public unless the information is material to the proceedings:

- a. Driver's license numbers.
- b. Information concerning medical treatment or diagnosis.
- c. Employment history.
- d. Personal financial information.
- e. Proprietary or trade secret information.
- f. Information concerning crime victims.
- g. Sensitive security information.
- h. Home addresses.

16.8(4) *Improperly included protected information.* A party may ask the division to restrict access to improperly included protected information from a filed document. The division may order a properly redacted document to be filed.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.9(10A) General requirements when filing documents.

16.9(1) *Format.* All documents must be converted to a PDF before they are filed in AEDMS. Documents submitted must be properly scanned, which includes having the pages in the correct order and orientation and having the scanned content of the document be legible.

16.9(2) *Separating documents.* Each document must be separated and uploaded with the correct document type selection on the document upload page. Any attachments to a document shall be uploaded as such and linked to the correct document prior to submission.

16.9(3) *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the document upload page. Once a document is submitted into AEDMS, only the division may make corrections to the document type the filer has chosen.

16.9(4) *Correcting errors.* If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the division as soon as possible. If the division discovers an error in the filing or docketing of a document, the division may notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

481—16.10(10A) Case initiation and service.

16.10(1) *Case initiation.* A case may be initiated by an agency or governmental entity via AEDMS by the electronic filing of a transmittal form pursuant to rule 481—10.4(10A).

16.10(2) *Filings by registered user.* To the extent another party to the case is not a registered user, the registered user shall serve those filings upon the nonregistered user pursuant to the applicable rules of contested case procedure and any other controlling law.

16.10(3) *Electronic service and distribution of electronic filings.*

a. When a document is electronically filed, that document will be served automatically through AEDMS to all parties to the proceeding who are registered users. No other service to those registered users is required unless ordered by the division or unless the registered user has filed a document indicating an express withdrawal from use of the AEDMS, either entirely or for a specific case.

b. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until they have filed a withdrawal of appearance or document indicating an express withdrawal from use of the AEDMS, either entirely or for a specific case.

16.10(4) *Division-generated documents.* All documents issued by the division shall be electronically filed and served upon registered users. Division-generated documents shall be served upon nonregistered users pursuant to the applicable rules of contested case procedure and any other controlling law.

[ARC 6294C, IAB 4/20/22, effective 5/25/22]

These rules are intended to implement Iowa Code section 10A.802.

[Filed ARC 6294C (Notice ARC 6176C, IAB 2/9/22), IAB 4/20/22, effective 5/25/22]

CHAPTERS 17 to 19

Reserved

AUDITS DIVISION

CHAPTER 20

CHAPTER 21

CHAPTER 22
HEALTH CARE FACILITY AUDITS
[Rules in 481—Chapter 22 transferred to 481—Chapter 31, 8/26/87]

481—22.1(10A) Audit occurrence. The department audits financial records of intermediate care facilities, residential care facilities, and intermediate care facilities for the intellectually disabled on a rotating basis or upon request of the department of human services (DHS). Audits are intended to ensure compliance with the following Iowa Administrative Code chapters:

1. 441—Chapter 52, Payment, specifically subrule 52.1(3).
2. 441—Chapter 54, Facility Participation, specifically rule 441—54.5(249) and subrule 54.8(2).
3. 441—Chapter 81, Nursing Facilities, specifically subrule 81.4(3), rule 441—81.10(249A) and subrule 81.14(2).
4. 441—Chapter 82, Intermediate Care Facilities for Persons With an Intellectual Disability, specifically subrules 82.9(3) and 82.17(2).

If a rule not listed is used in an audit, the auditor will notify the facility.

The department acts as an agent for DHS when conducting the above audits.

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

481—22.2(10A) Confidentiality. All information compiled during an audit is confidential according to Iowa Code sections 10A.105 and 217.30. All inquiries to release information which is confidential under Iowa Code section 217.30 must be addressed to the DHS.

22.2(1) Information may be added to an audit file by the subject of the audit when the subject notifies the Audits Unit, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

22.2(2) At the conclusion of the audit, when material is returned to DHS, DHS rules regarding fair information practices prevail.

[ARC 6518C, IAB 9/7/22, effective 10/12/22]

These rules are intended to implement Iowa Code sections 10A.302 and 22.11.

[Filed 1/6/88, Notices 8/12/87, 12/2/87—published 1/27/88, effective 3/2/88]

[Filed 1/5/89, Notice 11/30/88—published 1/25/89, effective 3/1/89]

[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]

[Filed ARC 6518C (Notice ARC 6412C, IAB 7/13/22), IAB 9/7/22, effective 10/12/22]

CHAPTERS 23 and 24

Reserved

CHAPTER 25

IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM

Rescinded **ARC 3768C**, IAB 4/25/18, effective 5/30/18

CHAPTERS 26 to 29

Reserved

INSPECTIONS DIVISION

CHAPTER 30

FOOD AND CONSUMER SAFETY

481—30.1(10A,137C,137F) Food and consumer safety bureau. The food and consumer safety bureau inspects food establishments and food processing plants including food storage facilities (warehouses), food and beverage vending machines, and hotels and motels. The food and consumer safety bureau is also responsible for social and charitable gambling and amusement devices. Separate chapters have been established for the administration of social and charitable gambling (481—Chapters 100 to 103, 106, and 107) and amusement devices (481—Chapters 104 and 105).

This rule is intended to implement Iowa Code sections 10A.104 and 22.11 and chapters 137C and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 3187C, IAB 7/5/17, effective 8/9/17; ARC 3768C, IAB 4/25/18, effective 5/30/18; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.2(10A,137C,137F) Definitions. If both the 2017 Food and Drug Administration Food Code with Supplement and rule 481—30.2(10A,137C,137F) define a term, the definition in rule 481—30.2(10A,137C,137F) shall apply.

“Bed and breakfast home” means a private residence which provides lodging and meals for guests, in which the host or hostess resides, and in which no more than four guest families are lodged at the same time. The facility may advertise as a bed and breakfast home but not as a hotel, motel or restaurant. The facility is exempt from licensing and inspection as a hotel or as a food establishment. A bed and breakfast home may serve food only to overnight guests, unless a food establishment license is secured.

“Bed and breakfast inn” means the same as defined in Iowa Code section 137C.2.

“Catering” means the preparation of food for distribution to an individual, business or organization for exclusive service to the individual’s, business’s or organization’s nonpaying guests, employees or members.

“Certified wild-harvested mushroom identification expert” means an individual who has within the last three years successfully completed a wild-harvested mushroom identification training program provided by an accredited college, university, or state mycological society. The training program must include a component of actual identification of physical specimens or simulations of mushroom species. A document must be issued by an accredited college, accredited university, or state mycological society certifying the individual’s successful completion of the wild-harvested mushroom identification training program and specifying the species of wild mushrooms the individual is qualified to identify.

“Commissary” means a food establishment used for preparing, fabricating, packaging and storage of food or food products for distribution and sale through the food establishment’s own outlets.

“Contractor” means a municipal corporation, county or other political subdivision that contracts with the department to license and inspect under Iowa Code chapter 137C or 137F. A list of contractors is maintained on the department’s website.

“Cottage food” means the production and sale of food produced at a private residence other than time/temperature control for safety food as provided in Iowa Code section 137F.20 as enacted by 2022 Iowa Acts, House File 2431, section 10, and food for resale that is not time/temperature control for safety food. “Cottage food” includes home-processed and home-canned pickles, vegetables, or fruits that have a finished equilibrium pH value of 4.60 or lower or a water activity value of 0.85 or less for which each batch has been measured by a pH meter or a water activity meter and each container that is sold or offered for sale contains the date the food was processed and canned. “Cottage food” does not include any of the following:

1. Milk or milk products regulated under Iowa Code chapters 192 and 194.
2. Meat, meat food products, poultry, or poultry food products regulated under Iowa Code chapter 189A.

“Criminal offense” means a public offense, as defined in Iowa Code section 701.2, that is prohibited by statute and is punishable by fine or imprisonment.

“Critical violation” means a foodborne illness risk factor and public health intervention and the violations defined as such by the Food Code adopted in rule 481—31.1(137F) and pursuant to Iowa Code section 137F.2.

“Cultivated mushroom” means a mushroom grown through a process in which the grower inoculates a substrate (logs, beds, straw, etc.) with a known strain or species of mushroom spawn in a dedicated space, whether outdoors or indoors, that is under the control of the grower, for the purpose of fruiting mushrooms.

“Department” means the department of inspections and appeals.

“Event” means a significant occurrence or happening sponsored by a civic, business, governmental, community, or veterans organization and may include an athletic contest. For example, an event does not include a single store’s grand opening or sale.

“Farmers market” means a marketplace which operates seasonally, principally as a common market for Iowa-produced farm products on a retail basis for consumption elsewhere.

“Farmers market time/temperature control for safety food license” means a license for a temporary food establishment that sells time/temperature control for safety foods at farmers markets. A separate annual farmers market time/temperature control for safety food license is required for each county in which the licensee sells time/temperature control for safety foods at farmers markets. The license is only applicable at farmers markets and is not required in order to sell wholesome, fresh shell eggs to consumer customers. “Farmers market time/temperature control for safety food license” does not include a temporary food establishment that sells packaged time/temperature control for safety food items from a licensed source at farmers markets.

“Food establishment” means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption and includes a food service operation in a salvage or distressed food operation, nutrition program operated pursuant to Title III-C of the Older Americans Act, school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, or the state training school. Assisted living programs and adult day services are included in the definition of food establishment to the extent required by 481—subrules 69.28(6) and 70.28(6). “Food establishment” does not include the following:

1. A food processing plant.
2. An establishment that offers only prepackaged foods that are not time/temperature control for safety foods.
3. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.
4. Premises which are a home food processing establishment pursuant to Iowa Code chapter 137D.
5. Premises which operate as a farmers market if unpackaged time/temperature control for safety foods are not sold or distributed from the premises.
6. Premises of a residence in which food is produced pursuant to Iowa Code section 137F.20 as enacted by 2022 Iowa Acts, House File 2431, section 10.
7. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.
8. A private home or private party where a personal chef or hired cook is providing food preparation services to a client and the client’s nonpaying guests.
9. A private home that receives catered or home-delivered food.
10. Child day care facilities and other food establishments located in hospitals or health care facilities that serve only patients and staff and are subject to inspection by other state agencies or divisions of the department.
11. Supply vehicles or vending machine locations.
12. Establishments that are exclusively engaged in the processing of meat and poultry and are licensed pursuant to Iowa Code section 189A.3.
13. The following premises, provided they are exclusively engaged in the sale of alcoholic beverages in a prepackaged form:
 - Premises of a beer manufacturer, distributor, or wholesaler under Iowa Code chapter 123;
 - Premises of a wine manufacturer, distributor, or wholesaler under Iowa Code chapter 123; and
 - Premises of a manufacturer of distilled spirits under Iowa Code chapter 123.
14. Premises or operations that are exclusively engaged in the processing of milk and milk products, are regulated by Iowa Code sections 192.107 and 194.1, and have a milk or milk products permit issued by the department of agriculture and land stewardship.
15. Premises or operations that are exclusively engaged in the production of shell eggs, are regulated by Iowa Code section 196.3, and have an egg handler’s license.
16. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; or labeled or from which honey is distributed.
- 17.

Premises regularly used by a nonprofit organization which engages in the serving of food on the premises as long as the nonprofit organization does not exceed the following restrictions:

- The nonprofit organization serves food no more than one day per calendar week and not on two or more consecutive days;

- Twice per year, the nonprofit organization may serve food to the public for up to three consecutive days; and

- The nonprofit organization may use the premises of another nonprofit organization not more than twice per year for one day to serve food.

18. A stand operated by a minor.

“Food processing plant” means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer. “Food processing plant” does not include any of the following:

1. The following premises, provided they are exclusively engaged in the sale of alcoholic beverages in a prepackaged form:

- Premises of a beer manufacturer, distributor, or wholesaler under Iowa Code chapter 123;
- Premises of a beer manufacturer, distributor, or wholesaler under Iowa Code chapter 123; and
- Premises of a manufacturer of distilled spirits under Iowa Code chapter 123.

2. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; or labeled or from which honey is distributed.

3. Premises or operations that are exclusively engaged in the processing of meat and poultry and are licensed pursuant to Iowa Code section 189A.3.

4. Premises or operations that are exclusively engaged in the processing of milk or milk products, are regulated by Iowa Code sections 192.107 and 194.1, and have a milk or milk products permit issued by the department of agriculture and land stewardship.

5. Premises or operations that are exclusively engaged in the production of shell eggs, are regulated by Iowa Code section 196.3, and have an egg handler’s license.

6. Premises or operations that are exclusively engaged in the preparation or processing of Siluriformes, including catfish, and are regulated and inspected by the United States Department of Agriculture under a federal grant of inspection.

7. Premises that are a home food processing establishment pursuant to Iowa Code chapter 137D.

“Food service establishment” means a food establishment where food is prepared or served for individual portion service intended for consumption on the premises or is subject to Iowa sales tax as provided in Iowa Code section 423.3.

“Hotel” means the same as defined in Iowa Code section 137C.2.

“License holder” means an individual, corporation, partnership, governmental unit, association or any other entity to whom a license was issued under Iowa Code chapter 137C or 137F.

“Mobile food unit” means a food establishment that is self-contained, with the exception of grills and smokers, and readily movable, which either operates up to three consecutive days at one location or returns to a home base of operation at the end of each day.

“Patrol dog” means a dog that is accompanying a law enforcement officer or security officer.

“Personal chef” or *“hired cook”* means a person who provides food preparation services in a private home or at a private party for a client and the client’s nonpaying guests. “Personal chef” or “hired cook” does not include a person who provides the ingredients intended to be used in food preparation.

“Pet dog” means a dog that does not meet the definition of a “patrol dog” or a “service animal” as defined in the Code of Federal Regulations, Title 28, Part 36.

“Pushcart” means a non-self-propelled vehicle food establishment limited to serving foods that are not time/temperature control for safety foods or commissary-wrapped foods maintained at proper temperatures or precooked foods that require limited assembly, such as frankfurters.

“Retail food establishment” means a food establishment that sells to consumer customers food or food products intended for preparation or consumption off the premises.

“Revoke” means to void or annul by recalling or withdrawing a license issued under Iowa Code chapter 137C or 137F. The entire application process, including the payment of applicable license fees, must be repeated to regain a valid license following a revocation.

“Stand operated by a minor” means a stand or other facility operated by a person or persons under the age of 18 at which food is sold directly to consumers that is not time/temperature control for safety food or an alcoholic beverage and that operates on a temporary and occasional basis on private property with the permission of the owner of the property.

“*Suspend*” means to render a license issued under Iowa Code chapter 137C or 137F invalid for a period of time, with the intent of resuming the validity of a license at the end of that period.

“*Temporary food establishment*” means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event.

“*Time/temperature control for safety food*” means a food that requires time and temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

“*Transient guest*” means an overnight lodging guest who does not intend to stay for any permanent length of time. Any guest who rents a room for more than 31 consecutive days is not classified as a transient guest.

“*Unattended food establishment*” means an operation that provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public. “Controlled entry,” for the purposes of the definition of “unattended food establishment,” means selective restriction or limitation of access to a place or location.

“*Vending machine*” means a self-service device which, upon insertion of a coin, paper currency, token, card or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation. Vending machines that dispense only prepackaged foods that are not time/temperature control for safety foods, panned candies, gumballs or nuts are exempt from licensing but may be inspected by the department upon receipt of a written complaint. “Panned candies” are those with a fine, hard coating on the outside and a soft candy filling on the inside. Panned candies are easily dispensed by a gumball-type machine.

“*Vending machine location*” means the room, enclosure, space, or area where one or more vending machines are installed and operated, including the storage areas on the premises that are used to service and maintain the vending machine.

“*Wild-harvested mushroom*” means a fresh mushroom that has been found or foraged in the natural environment and has not been processed (e.g., dried or frozen). “Wild-harvested mushroom” does not include cultivated mushrooms or mushrooms that have been packaged in an approved food processing plant.

This rule is intended to implement Iowa Code sections 10A.104 and 137C.8 and chapter 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 3187C, IAB 7/5/17, effective 8/9/17; ARC 4139C, IAB 11/21/18, effective 1/1/19; ARC 4731C, IAB 10/23/19, effective 11/27/19; ARC 5119C, IAB 7/29/20, effective 9/2/20; ARC 5353C, IAB 12/30/20, effective 2/3/21; ARC 5354C, IAB 12/30/20, effective 2/3/21; ARC 5843C, IAB 8/11/21, effective 9/15/21; ARC 5845C, IAB 8/11/21, effective 9/15/21; ARC 6568C, IAB 10/5/22, effective 11/9/22; ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—30.3(137C,137F) Licensing and postings. A license to operate any food establishment or food processing plant defined in rule 481—30.2(10A,137C,137F) must be granted by the department of inspections and appeals. Application for a license is made on a form furnished by the department which contains the names of the business, owner, and manager; locations of buildings; and other data relative to the license requested. Applications are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, or from contractors. An application for licensure shall be submitted 30 days in advance of the opening of the food establishment or food processing plant. Temporary food establishment license applications shall be submitted a minimum of 3 business days prior to opening.

30.3(1) Transferability. A license is not transferable to a new owner or location. Any change in business ownership or business location requires a new license. Vending machines, mobile food units and pushcarts may be moved without obtaining a new license. A farmers market time/temperature control for safety food license may be used in the same county at different individual locations without obtaining a new license. However, if the different individual locations are operated simultaneously, a separate license is required for each location. Nutrition sites for the elderly licensed under Iowa Code chapter 137F may change locations in the same city without obtaining a new license.

30.3(2) Refunds. License fees are refundable only if the license is surrendered to the department prior to the effective date of the license and only as follows:

- a. License fees of \$67.50 or less are an application processing fee and are not refundable.
- b. If an on-site visit has not occurred, license fees of more than \$67.50 will be refunded less the \$67.50.
- c. If an on-site visit has occurred, the entire license fee is nonrefundable.

30.3(3) License expiration. A license is renewable and expires after one year, with the exception of a temporary food establishment license issued in conjunction with a single event at a specific location, which is valid for a period not to exceed 14 consecutive days.

30.3(4) Posting of inspection reports, licenses, and registration tags. A valid license and the most recent inspection report, along with any current complaint or reinspection reports, shall be posted no higher than eye level

where the public can see them. The report shall not be posted in such a manner that the public cannot reasonably read the report. For example, the posting of a report behind a service area where the report can be seen but not easily read is not allowed. Vending machines shall bear a tag to affirm the license. For the purpose of this subrule, only founded complaint reports shall be considered complaints. Founded complaints shall be posted until either the mail-in recheck form has been submitted to the regulatory authority or a recheck inspection has been conducted to verify that the violations have been corrected.

30.3(5) *Documentation of gross sales.* The regulatory authority shall require from a license holder documentation of the annual gross sales of food and drink sold by a licensed food establishment or a licensed food processing plant unless the establishment is paying the highest license fee required by rule 481—30.4(137C,137F). The documentation submitted by the license holder will be kept confidential and will be used to verify that the license holder is paying the appropriate license fee based on annual gross sales of food and drink. For food processing plants that are food storage facilities and food establishments whose sales are included in a single rate with lodging or other services, the value of the food handled should be used. Documentation shall include at least one of the following:

- a. A copy of the firm's business tax return;
- b. Quarterly sales tax data;
- c. A letter from an independent tax preparer;
- d. Other appropriate records.

30.3(6) *License eligibility for renewal limited to 60 days after expiration.* A delinquent license shall only be renewed if application for renewal is made within 60 days of expiration of the license. If a delinquent license is not renewed within 60 days, an establishment must apply for a new license and meet all the requirements for licensure. Establishments that have not renewed the license within 60 days of the expiration of the license shall be closed by the department or a contractor. The establishment shall not be reopened until a new license application has been submitted and approved.

This rule is intended to implement Iowa Code sections 10A.104 and 137C.8 and chapter 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 4139C, IAB 11/21/18, effective 1/1/19; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.4(137C,137F) License fees. The license fee is the same for an initial license and a renewal license. License applications are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, or from a contractor. License fees are set by the Iowa Code sections listed below and are charged as follows:

30.4(1) *Retail food establishments.* License fees for retail food establishments are based on annual gross sales of food or food products to consumer customers and intended for preparation or consumption off the premises (Iowa Code section 137F.6) as follows:

- a. For annual gross sales of less than \$250,000—\$150.
- b. For annual gross sales of \$250,000 to \$750,000—\$300.
- c. For annual gross sales of more than \$750,000—\$400.

30.4(2) *Food service establishments.* License fees for food service establishments are based on annual gross sales of food and drink for individual portion service intended for consumption on the premises (Iowa Code section 137F.6) or subject to Iowa sales tax as provided in Iowa Code section 423.3 as follows:

- a. For annual gross sales of less than \$100,000—\$150.
- b. For annual gross sales of \$100,000 to \$500,000—\$300.
- c. For annual gross sales of more than \$500,000—\$400.

30.4(3) *Vending machines.* License fees for food and beverage vending machines are \$50 for the first machine and \$10 for each additional machine (Iowa Code section 137F.6).

30.4(4) *Hotels.* License fees for hotels shall be as set forth in Iowa Code section 137C.9.

30.4(5) *Mobile food units or pushcarts.* The license fee for a mobile food unit or a pushcart is \$250 (Iowa Code section 137F.6).

30.4(6) *Temporary food establishments.*

a. The fee for a temporary food establishment license issued for up to 14 consecutive days in conjunction with a single event is \$50 (Iowa Code section 137F.6).

b. The annual fee for a temporary food establishment license issued for multiple nonconcurrent events on a countywide basis during a calendar year is \$200 (Iowa Code section 137F.6). Temporary food establishments that operate simultaneously at more than one location within a county are required to have a separate license for each location.

30.4(7) Food processing plants including food storage facilities (warehouses). For food processing plants, the annual license fee is based on the annual gross sales of food and food products handled at that plant or food storage facility (warehouse) (Iowa Code section 137F.6) as follows:

- a. For annual gross sales of less than \$200,000—\$150.
- b. For annual gross sales of \$200,000 to \$2 million—\$300.
- c. For annual gross sales of more than \$2 million—\$500.

30.4(8) Farmers market. A person selling time/temperature control for safety food at a farmers market must pay an annual license fee of \$150 for each county of operation. Persons who operate simultaneously at more than one location within a county are required to have a separate license for each location.

30.4(9) Certificate of free sale or sanitation. The fee for a certificate of free sale or sanitation is \$35 for the first certificate and \$10 for each additional identical certificate requested at the same time.

30.4(10) Unattended food establishment. The annual license fee for an unattended food establishment is based on the annual gross food and beverage sales (Iowa Code section 137F.6) as follows:

- a. Annual gross sales of less than \$100,000—\$75.
- b. Annual gross sales of \$100,000 or more—\$150.

30.4(11) Events. The license fee for an event is \$50, which shall be submitted with a license application to the appropriate regulatory authority at least 60 days in advance of the event. An “event” for purposes of this subrule does not include a function with ten or fewer temporary food establishments, a fair as defined in Iowa Code section 174.1, or a farmers market.

30.4(12) Voluntary inspection fee. The department shall charge a voluntary inspection fee of \$100 when a premises that is not a food establishment requests a voluntary inspection.

This rule is intended to implement Iowa Code sections 137C.9 and 137F.6.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 3187C, IAB 7/5/17, effective 8/9/17; ARC 4139C, IAB 11/21/18, effective 1/1/19; ARC 6568C, IAB 10/5/22, effective 11/9/22; ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—30.5(137F) Penalty and delinquent fees.

30.5(1) Late penalty. Food establishment licenses and food processing plant licenses that are renewed by the licensee after the license expiration date shall be subject to a penalty of 10 percent of the license fee per month. A license shall be renewed only if the license holder has provided documentation pursuant to subrule 30.3(5).

30.5(2) Penalty for opening or operating without a license. A person who opens or operates a food establishment or food processing plant without a license is subject to a penalty of up to twice the amount of the annual license fee.

30.5(3) Civil penalty for violations. A person who violates Iowa Code chapter 137F or these rules shall be subject to a civil penalty of \$100 for each violation. Prior to assessment of the penalty, the license holder shall have an opportunity for a hearing using the process outlined in rule 481—30.11(10A,137C,137F).

This rule is intended to implement Iowa Code sections 137F.4, 137F.9 and 137F.17.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.6(137C,137F) Returned checks. If a check intended to pay for any license provided for under Iowa Code chapter 137C or 137F is not honored for payment by the bank on which it is drafted, the department will attempt to redeem the check. The department will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 shall be assessed for each dishonored check. If the department does not receive cash to replace the check, the establishment will be operating without a valid license. Furthermore, any late penalties assessed pursuant to rule 481—30.5(137F) will accrue and must be paid.

This rule is intended to implement Iowa Code sections 137C.9 and 137F.6.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.7(137F) Double licenses.

30.7(1) Any establishment that holds a food service establishment license and has gross sales over \$20,000 annually in packaged food items intended for consumption off the premises shall also be required to obtain a retail food establishment license. The license holder shall keep a record of these food sales and make it available to the department upon request.

30.7(2) Licensed retail food establishments serving only coffee, soft drinks, popcorn, prepackaged sandwiches or other food items manufactured and packaged by a licensed establishment need only obtain a retail food establishment license.

30.7(3) A food establishment that holds both a food service establishment license and a retail food establishment license shall pay a license fee based on the annual gross sales for the dominant form of business plus \$150.

EXAMPLE: A food establishment holds a food service establishment license and a retail food establishment license. It has annual gross sales of more than \$750,000 for its retail food establishment and \$120,000 for its food service establishment. The food establishment pays a license fee of \$400 for its retail food establishment license (paragraph 30.4(1)“c”) and \$150 for its food service establishment license (rule 481—30.7(137F)).

30.7(4) The dominant form of business shall determine the type of license for establishments which engage in operations covered under both the definition of a food establishment and of a food processing plant. The dominant form of business shall be deemed to be the business with higher annual gross sales. Food establishments that also process low-acid food in hermetically sealed containers or process acidified foods are required to have a food processing plant license in addition to the food establishment license. Regardless of the type of license, food processing plants shall be inspected pursuant to food processing inspection standards and food establishments shall be inspected pursuant to the Food Code.

This rule is intended to implement Iowa Code sections 10A.104 and 137F.6.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 4139C, IAB 11/21/18, effective 1/1/19; ARC 4731C, IAB 10/23/19, effective 11/27/19]

481—30.8(137C,137F) Inspection frequency.

30.8(1) *Food establishments.* Food establishments shall be inspected based upon risk assessment and shall have routine inspections at least once every 60 months. Very low risk food establishments will not have a routine inspection frequency.

30.8(2) *Food processing plants.* Food processing plants that process foods shall be inspected based upon risk assessment and shall have routine inspections at least once every 60 months. If the United States Food and Drug Administration completes an inspection in a facility, the inspection shall count as a state inspection for frequency purposes.

30.8(3) *Food processing plants that store foods.* Food processing plants that store foods shall be inspected based upon risk assessment and shall be inspected at least once every 84 months. If the United States Food and Drug Administration completes an inspection in a facility, the inspection shall count as a state inspection for frequency purposes.

30.8(4) *Hotels.* Hotels shall be inspected in accordance with Iowa Code chapter 137C.

30.8(5) *Farmers market time/temperature control for safety food.* Farmers market time/temperature control for safety food licensees shall be inspected at least once annually.

30.8(6) *Temporary food establishments.* Temporary food establishments issued an annual license pursuant to paragraph 30.4(6)“b” shall be inspected at least once annually.

This rule is intended to implement Iowa Code sections 137C.11 and 137F.10.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 3187C, IAB 7/5/17, effective 8/9/17; ARC 4139C, IAB 11/21/18, effective 1/1/19; ARC 6568C, IAB 10/5/22, effective 11/9/22; ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—30.9(22) Examination of records.

30.9(1) *Public information.* Generally, information collected by the food and consumer safety bureau and contractors is considered public information. Records are stored in computer files and are not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director. Inspection reports are available for public viewing at www.food.dia.iowa.gov.

30.9(2) *Confidential records.* The following are examples of confidential records:

- a. Trade secrets and proprietary information including items such as formulations, processes, policies and procedures, and customer lists;
- b. Health information related to foodborne illness complaints and outbreaks;
- c. The name or any identifying information of a person who files a complaint with the department; and
- d. Other state or federal agencies' records.

For records of other federal or state agencies, the department shall refer the requester of such information to the appropriate agency.

This rule is intended to implement Iowa Code chapters 137C, 137F and 22.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 4731C, IAB 10/23/19, effective 11/27/19; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.10(17A,137C,137F) Denial, suspension, or revocation of a license to operate. Notice of denial, suspension or revocation of a license will be provided by the department and shall be effective 30 days after mailing or personal service of the notice.

30.10(1) *Immediate suspension of license.* To the extent not inconsistent with Iowa Code chapters 17A, 137C, and 137F and rules adopted pursuant to those chapters, chapter 8 of the Food Code shall be adopted for food establishments. The department or contractor may immediately suspend a license in cases of an imminent health

hazard. The procedures of Iowa Code section 17A.18A and Food Code chapter 8 shall be followed in cases of an imminent health hazard. The appeal process in rule 481—30.11(10A,137C,137F) is available following an immediate suspension. The department may immediately suspend the license of a food processing plant or hotel if an imminent health hazard finding is made and the procedures of Iowa Code section 17A.18A are followed.

30.10(2) Criminal offense—conviction of license holder.

- a. The department may revoke the license of a license holder who:
 - (1) Conducts an activity constituting a criminal offense in the licensed food establishment; and
 - (2) Is convicted of a felony as a result.
- b. The department may suspend or revoke the license of a license holder who:
 - (1) Conducts an activity constituting a criminal offense in the licensed food establishment; and
 - (2) Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.
- c. A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.
- d. The department's decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of rule 481—30.11(10A,137C,137F).

This rule is intended to implement Iowa Code chapters 17A, 137C and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 3187C, IAB 7/5/17, effective 8/9/17; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.11(10A,137C,137F) Formal hearing. All decisions of the food and consumer safety bureau may be contested by an adversely affected party. A request for a hearing must be made in writing to the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by 481—Chapter 9, “Contested Cases.”

For contractors, license holders shall have the opportunity for a hearing before the local board of health. If the hearing is conducted before the local board of health, the license holder may appeal to the department and shall follow the process for review in rule 481—9.3(10A,17A).

This rule is intended to implement Iowa Code section 10A.104 and Iowa Code chapters 137C and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14; ARC 3523C, IAB 12/20/17, effective 1/24/18; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—30.12(137F) Primary servicing laboratory. The primary servicing laboratory for the food and consumer safety bureau is the State Hygienic Laboratory at the University of Iowa created under Iowa Code section 263.7. If the laboratory is unable to perform laboratory services, the laboratory will assist in finding another laboratory with a preference toward laboratories that are in the FERN (Food Emergency Response Network) and have achieved ISO 17025 accreditation.

This rule is intended to implement Iowa Code sections 10A.104 and 22.11 and Iowa Code chapters 137C, 137D, and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.13(10A,137F) Cottage food.

30.13(1) Cottage food is exempt from all licensing, permitting, inspection, packaging, and labeling laws of the state if the food complies with all of the following:

- a. The food does not require time/temperature control for safety. When it is not obvious whether a food requires time/temperature control for safety, the food producer must provide documentation that a food does not require time/temperature control for safety to the regulatory authority upon request.
- b. The food is not a milk or milk product regulated under Iowa Code chapters 192 and 194.
- c. The food is not a meat, meat food product, poultry, or poultry food product regulated under Iowa Code chapter 189A.
- d. The food is not unpasteurized fruit or vegetable juice.
- e. The food is produced in a private residence.
- f. The food is sold and delivered by the producer directly to the consumer.
- g. The cottage food is labeled or affixed with the following information:
 - (1) Information to identify the name and address, phone number, or electronic mail address of the person preparing the food.
 - (2) The common name of the food.
 - (3) The ingredients of the cottage food in descending order of predominance.
 - (4) The following statement: “This product was produced at a residential property that is exempt from state licensing and inspection.”

(5) If the cottage food contains one or more major food allergens, an additional allergen statement identifying each major allergen contained in the food by the common name of the allergen.

(6) If the food is home-processed and contains home-canned pickles, vegetables, or fruits permitted under this rule, the date that the food was processed and canned.

h. Home-processed and home-canned pickles, vegetables, or fruits sold under this rule must comply with the following:

(1) Each batch must be measured by a pH meter or a water activity meter and shall have a finished equilibrium pH value of 4.60 or lower or a water activity value of 0.85 or less.

(2) Each container that is sold or offered for sale must contain the date the food was processed and canned.

i. The cottage food producer must provide batch testing records to the regulatory authority upon request, including at the point of sale.

j. Cottage food shall not be offered for sale in a food establishment except in a temporary food establishment, provided that the temporary food establishment is operated by the cottage food producer and the cottage food is offered for sale in a packaged form and labeled in accordance with paragraph 30.13(1) "g."

30.13(2) Compliance with the cottage food exemption provided in this rule does not represent compliance with federal law.

This rule is intended to implement Iowa Code chapter 137F as amended by 2022 Iowa Acts, House File 2431.

[ARC 6568C, IAB 10/5/22, effective 11/9/22]

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CHAPTER 31
FOOD ESTABLISHMENT AND FOOD
PROCESSING PLANT INSPECTIONS

[Prior to 8/26/87, see Inspections and Appeals Department[481]—Chs 21 and 22]

481—31.1(137F) Inspection standards for food establishments. The department adopts, with the following exceptions, the 2017 Food Code with Supplement of the Food and Drug Administration as the state's "food code," which is the inspection standard for food establishments other than food processing plants.

31.1(1) Unattended food establishments—assignment of responsibility. For the purposes of section 2-101.11(C) of the 2017 Food Code with Supplement, unattended food establishments are not required to have a designated person in charge present during all hours of operation provided that the permit holder ensures the following requirements are met.

a. Unattended food establishment location. The unattended food establishment shall be located in the interior of a building that is not accessible by the general public. Access to the unattended food establishment shall be limited to a defined population (e.g., employees or occupants of the building where the establishment is located).

b. Nature and source of food and beverages offered for sale.

(1) Only commercially packaged foods properly labeled for individual retail sale, pursuant to Food Code section 3-201.11(C), shall be offered.

(2) No unpackaged food is permitted except as provided by section 3-302.11(B)(1) of the Food Code.

(3) Food preparation by consumers is limited to heating/reheating food in a microwave oven.

(4) No dispensing of bulk food is permitted.

c. Refrigerated display equipment. An unattended food establishment shall be equipped with refrigeration or freezer units that have the following features:

(1) Self-closing doors that allow food to be viewed without opening the door to the refrigerated cooler or freezer; and

(2) An automatic self-locking mechanism that prevents the consumer from accessing the food upon the occurrence of any condition that results in the failure of the refrigeration unit to maintain the internal product temperature specified under section 3-501.16(A)(2) or of the freezer unit to maintain the product as frozen.

d. Food service equipment limitations.

(1) Beverages are dispensed by individual serving only. Beverage dispensers connected to the building water supply must be properly equipped with backflow prevention pursuant to section 5-203.14 of the Food Code.

(2) Food-contact surfaces.

1. Multiuse food-contact surfaces shall be cleaned on a frequency consistent with the service pursuant to section 4-202.11 of the Food Code or can be and are easily removed and replaced with cleaned surfaces.

2. No multiuse food-contact surfaces intended for use with time/temperature control for safety foods are permitted.

e. Security.

(1) An unattended food establishment shall provide continuous video surveillance of areas where consumers view, select, handle and purchase products. The continuous video surveillance shall provide sufficient resolution to identify situations that may compromise food safety or food defense.

1. Video surveillance recordings shall be maintained and, upon request by a representative of a regulatory agency, made available for inspection within 24 hours of the request.

2. Video surveillance recordings shall be held by the establishment for a minimum of 14 days after the date of the surveillance.

(2) The permit holder shall take reasonable steps necessary to discourage individuals from returning food, beverages, or both that have not been selected for purchase.

f. Routine maintenance at an unattended food establishment.

(1) The permit holder shall service the unattended food establishment at least weekly. Service may include, but is not limited to, the following:

1. Checking food supplies and equipment for signs of product damage, tampering, or both.

2. Verifying that refrigeration equipment is operating properly, including the temperature display and self-locking mechanism.

3. Rotating foods to better ensure first in/first out of food items.

4. Cleaning food service equipment and food display areas.

5. Stocking food and disposable single-use and single-service supplies.

6. Checking inventory for recalled foods.

(2) The permit holder shall ensure that:

1. Food is from an approved source.
2. Packaged food is provided in tamper-evident packaging.
3. Food is protected from potential sources of cross contamination.
4. Food is maintained at safe temperatures during transport and display.

g. Unattended food establishment oversight. Each unattended food establishment shall have a sign readily visible at the automated payment station stating:

(1) The name and mailing address of the business entity responsible for the establishment and to whom complaints and comments should be addressed.

(2) The telephone number, email address or web information for the responsible business entity, when applicable.

h. Designation of responsibilities. The permit holder bears all responsibilities for the operation of the food establishment. When the permit holder is not the owner or operator of the building where the food establishment is located, a mutual agreement that outlines the responsibilities for cleaning and maintenance of all surfaces and equipment and for provision of supportive facilities/services, such as janitorial services and restroom facilities, pest control and removal of solid waste, may be approved by the regulatory agency. This agreement should also outline actions that must be taken by both parties to maintain the establishment in compliance with all requirements including responding to imminent health hazards.

i. Inspections—on-site person in charge. When requested by the regulatory authority for the purposes of conducting an inspection, the permit holder shall provide an on-site person in charge within a reasonable time frame not to exceed four hours.

31.1(2) Certified food protection manager requirements, exceptions, and time frames for compliance.

a. For the purposes of section 2-102.12(A) of the 2017 Food Code with Supplement, the food establishment may employ a single certified food protection manager who is not present at the food establishment during all hours of operation, as long as the following requirements are met:

(1) The individual who is a certified food protection manager has supervisory and management responsibility and the authority to direct and control food preparation and service at the food establishment;

(2) The person in charge demonstrates knowledge as prescribed in section 2-102.11 of the 2017 Food Code with Supplement; and

(3) The person in charge demonstrates active managerial control of food safety by complying with section 2-103.11 of the 2017 Food Code with Supplement.

b. A food establishment that, upon inspection, is found to be in violation of section 2-102.11 or 2-103.11 of the 2017 Food Code with Supplement will have six months to ensure that any individual designated as the person in charge is a certified food protection manager.

c. For the purposes of section 2-102.12(B), the following food establishments are not required to employ a certified food protection manager:

(1) Food establishments that sell only prepackaged food.

(2) Temporary or farmers market food establishments.

(3) Food establishments at which food is not prepared, where customers may purchase beverages and where the service of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn or peanuts and to the reheating of commercially prepared foods for immediate service that do not require assembly, such as frozen pizza or prepackaged sandwiches.

(4) Food establishments at which food is not prepared, where customers may purchase only commercially prepared non-time/temperature control for safety foods that are dispensed either unpackaged or packaged and that are intended for off-premises consumption.

d. Time frames for compliance with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2)“a” and “b,” are as follows:

(1) Newly licensed facilities must comply with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2)“a” and “b,” within six months of licensure.

(2) If an individual meeting the requirement of paragraph 31.1(2)“a” leaves employment, the establishment shall meet the requirement of section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2)“a” and “b,” within six months of the individual’s departure.

31.1(3) Honey prepared in a residence. Section 3-201.11 is amended to allow honey which is stored; prepared, including by placement in a container; or labeled at or distributed from the premises of a residence to be sold in a food establishment.

31.1(4) *Homemade food items prepared in a licensed home food processing establishment.* Section 3-201.11 is amended to allow homemade food items that are eligible for resale and are prepared, packaged, and labeled pursuant to 481—Chapter 34 to be offered for human consumption in a food establishment.

31.1(5) *Wild-harvested mushrooms.* Section 3-201.16, paragraph (A), is amended by adding the following:

“A food establishment or farmers market time/temperature control for safety food licensee may sell or serve wild-harvested mushrooms provided:

“a. All wild-harvested mushrooms sold or served are varieties classified as one of the following:

Common name	Scientific name
Morel	<i>Morchella</i> spp. (<i>M. americana</i> , <i>M. angusticeps</i> , <i>M. punctipes</i>)
Oyster	<i>Pleurotus citrinopileatus</i> , <i>Pleurotus ostreatus</i> , <i>Pleurotus populinus</i> , or <i>Pleurotus pulmonarius</i>
Chicken of the woods	<i>Laetiporus</i> (<i>L. cincinnatus</i> , <i>L. sulphureus</i>)
Hen of the woods	<i>Grifola frondosa</i>
Chanterelle	<i>Cantharellus cibarius</i> group
Bear’s head tooth, Lion’s mane	<i>Hericius</i> spp. (<i>H. erinaceus</i> , <i>H. americanum</i>)
Pheasant back	<i>Polyporus squamosus</i>
Black trumpet	<i>Craterellus cornucopoides</i>

“b. All wild-harvested mushrooms sold or served in a food establishment must be obtained from sources where each mushroom is individually inspected and found to be safe by a certified wild-harvested mushroom identification expert.

“c. All wild-harvested mushroom species sold or served in a food establishment must have a written buyer specification. The buyer shall retain the written buyer specification for 90 days from the date of sale or service. The written buyer specification must include all of the following information:

“1. Identification of each mushroom species by the scientific and common name;

“2. Date of purchase;

“3. Quantity by weight of each species received;

“4. A statement indicating that each mushroom was identified in its fresh state and was not mixed or in contact with other mushroom species;

“5. The name, address, and telephone number of the certified wild-harvested mushroom identification expert; and

“6. A copy of the certified wild-harvested mushroom identification expert’s certificate of successful completion of the program, including the date of completion.

“d. A consumer advisory shall inform consumers by brochures, deli case, menu advisories, label statements, table tents, placards, or other effective written means that ‘wild-harvested mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.’

“e. This section does not apply to cultivated mushrooms or mushrooms that have been packaged in an approved food processing plant.”

31.1(6) *Field-dressed wild game prohibition.* Subparagraph 3-201.17(A)(4) is amended to state that field-dressed wild game shall not be permitted in food establishments unless:

a. The food establishment is also licensed and inspected by the Iowa department of agriculture and land stewardship, meat and poultry inspection bureau, pursuant to Iowa Code section 189A.3;

b. All field-dressed wild game is adequately separated from food, equipment, utensils, clean linens, and single-service and single-use articles; and

c. Any equipment used in the processing of field-dressed wild game is adequately cleaned and sanitized before use with other foods.

31.1(7) *Reduced oxygen packaging in meat and poultry processing plants.* Meat and poultry processing plants that are licensed and inspected by the Iowa department of agriculture and land stewardship (IDALS) meat and poultry inspection bureau pursuant to Iowa Code section 189A.3 and that are also licensed as a food establishment are exempt from section 3-502.11, paragraphs (A), (B), (D) and (F), and section 3-502.12 if all of the following criteria are met:

a. Each food product formulation has been approved by the Iowa department of agriculture and land stewardship, meat and poultry inspection bureau;

b. A copy of the approved formulation (T40/45) is maintained on file at the establishment and made available to the regulatory authority upon request;

c. Cooked products that do not include a curing agent or an antimicrobial agent that will control *Clostridium botulinum* and *Listeria monocytogenes* that are in a reduced oxygen package are stored and sold frozen and are labeled “Keep Frozen”; and

d. The food products are properly labeled.

31.1(8) *Reduced oxygen packaging.* Section 3-502.12 is amended to include the following:

"A HACCP PLAN is not required when a FOOD ESTABLISHMENT packages raw meat and poultry using a REDUCED OXYGEN PACKAGING method and includes on the package a 30-day "sell by" date from the date the raw meat or poultry was packaged."

31.1(9) *Warewashing sinks in establishments serving alcoholic beverages.* Section 4-301.12 is amended by adding the following: "When alcoholic beverages are served in a food service establishment, a sink with not fewer than three compartments shall be used in the bar area for manual washing, rinsing and sanitizing of bar utensils and glasses. When food is served in a bar, a separate three-compartment sink for washing, rinsing and sanitizing food-related dishes shall be used in the kitchen area, unless a dishwasher is used to wash utensils."

31.1(10) *Allowance for two-compartment sinks in certain circumstances.* Paragraph 4-301.12(C) is amended by adding the following: "Establishments need not have a three-compartment sink when each of the following conditions is met:

- "1. Three or fewer utensils are used for food preparation;
- "2. Utensils are limited to tongs, spatulas, and scoops; and
- "3. The department has approved after verification that the establishment can adequately wash and sanitize these utensils."

31.1(11) *Service sink.* For existing establishments, if waste water is being appropriately disposed of, section 5-203.13 for existing establishments shall go into effect upon the establishment's renovation or sale.

31.1(12) *Backflow protection.* Section 5-203.14 is amended by adding the following: "Water outlets with hose attachments, except for water heater drains and clothes washer connections, shall be protected by a non-removable hose bibb backflow preventer or by a listed atmospheric vacuum breaker installed at least six inches above the highest point of usage and located on the discharge side of the last valve."

31.1(13) *Backflow prevention.* Paragraph 5-402.11(D) is amended by adding the following: "A culinary sink or sink used for food preparation shall not have a direct connection between the sewage system and a drain originating from that sink. Culinary sinks or sinks used in food preparation shall be separated by an air break."

31.1(14) *Prohibiting animals.* Section 6-501.115, paragraph (B), is amended by adding the following:

"(6) Pet dogs may be allowed on exterior premises of a food establishment, including outdoor patio and outdoor dining areas, provided the food establishment meets all of the following requirements:

- "a. A separate entrance is present so that pet dogs do not enter the food establishment to access the outdoor area;
- "b. No food preparation is allowed in the outdoor area, including mixing or dispensing drinks and ice;
- "c. Customer multi-service or reusable utensils such as plates, silverware, glasses, and bowls are not stored, displayed, or pre-set in the outdoor area;
- "d. Food or water provided to pet dogs shall only be in single-use disposable containers provided by the food establishment or a container provided by the pet owner that is filled without any contact between the container and any dispensing item of the food establishment;
- "e. Employees are prohibited from direct contact with pet dogs while on duty;
- "f. The outdoor area is maintained clean;
- "g. In cases where excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited, an employee shall immediately ensure the area is cleaned and sanitized;
- "h. The outdoor area shall not be fully enclosed (an enclosed area is considered part of the interior of the facility);
- "i. Disruptive pet dogs must be controlled or removed from the premises;
- "j. Rules governing pet dogs shall be posted at each entrance of the food establishment and shall, at a minimum, contain the following:

- "i. Pet dogs shall be leashed at all times;
- "ii. Pet dogs shall not enter any interior area of the food establishment at any time;
- "iii. Pet dogs must be controlled at all times by the dog's owner or designee;
- "iv. Pet dogs are not permitted on chairs, tables, benches or seats; and
- "v. Pet dog owners must immediately notify the food establishment's staff in the event that excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited."

31.1(15) *Inspection standards for elder group homes.* Elder group homes as defined by Iowa Code section 231B.1 shall be inspected by the department, but chapters 4 and 6 of the Food Code shall not apply. Elder group homes shall pay the lowest license fee set forth in 481—subrule 30.4(2).

31.1(16) *Nonprofit exception for temporary events.* Nonprofit organizations that are licensed as temporary food establishments may serve non-time/temperature control for safety food from an unapproved source for the duration of

the event. This does not include home-canned pickles, vegetables, or fruits produced in accordance with Iowa Code section 137F.20 as enacted by 2022 Iowa Acts, House File 2431, section 10.

31.1(17) *Variance approval by department and submission of HACCP plans.* Any variances or HACCP plans that require approval by the “regulatory authority” must be approved by the department. HACCP plans pursuant to paragraphs 3-502.12(B) and 8-201.13(B) shall be filed with the department prior to implementation, regardless of whether or not the plan requires approval.

31.1(18) *Trichinae control for pork products prepared at retail.* Pork products prepared at retail shall comply with the Code of Federal Regulations found in 9 CFR, Section 318.10, January 1, 2015, publication, regarding the destruction of possible live trichinae in pork and pork products. Examples of pork products that require trichinae control include raw sausages containing pork and other meat products, raw breaded pork products, bacon used to wrap around steaks and patties, and uncooked mixtures of pork and other meat products contained in meat loaves and similar types of products. The use of “certified pork” as authorized by the Iowa department of agriculture and land stewardship or the United States Department of Agriculture, Food Safety and Inspection Service, shall meet the requirements of this subrule.

This rule is intended to implement Iowa Code section 137F.2.

[ARC 1191C, IAB 11/27/13, effective 1/1/14; ARC 1928C, IAB 4/1/15, effective 5/6/15; ARC 2257C, IAB 11/25/15, effective 12/30/15; ARC 3188C, IAB 7/5/17, effective 8/9/17 (see footnote 2 at end of chapter); ARC 4140C, IAB 11/21/18, effective 1/1/19; ARC 4731C, IAB 10/23/19, effective 11/27/19; ARC 5119C, IAB 7/29/20, effective 9/2/20; ARC 5353C, IAB 12/30/20, effective 2/3/21; ARC 5843C, IAB 8/11/21, effective 9/15/21; ARC 5844C, IAB 8/11/21, effective 9/15/21; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—31.2(137F) Inspection standards for food processing plants. The following are the inspection standards for food processing plants including food storage facilities.

31.2(1) *Definitions.* For the purposes of this rule, the following definitions shall apply. The definitions of “food,” “label,” “labeling,” and “dietary supplement” are as defined in 21 U.S.C. Section 321.

31.2(2) *Prohibited acts.* The prohibited acts identified in 21 U.S.C. Section 331(a) to (f), (k), and (v) shall also be prohibited acts in Iowa.

31.2(3) *Stop sale.* Any article of food that is adulterated or misbranded when introduced into commerce may be embargoed until such a time as the adulteration or misbranding is remedied or the product is destroyed. The action is immediate, but the licensee may appeal the decision following the process outlined in rules 481—30.11(10A,137C,137F) and 481—34.14(137D).

31.2(4) *Standards for food.* If a standard that has been adopted for a food is adopted pursuant to 21 U.S.C. Section 341 (2012), the standard shall be met.

31.2(5) *Adulterated food.* See rules 481—31.3(137F) and 481—34.5(137D).

31.2(6) *Misbranded food.* A food shall be misbranded if it is found in violation of 21 U.S.C. Section 343 (2012).

31.2(7) *New dietary ingredients.* New dietary ingredients shall comply with the process in 21 U.S.C. Section 350(b) (2012) or shall be deemed adulterated.

31.2(8) *Records.* Records shall be made available at minimum to the extent required under 21 U.S.C. Section 373 (2012) for all interstate and intrastate food.

31.2(9) *Adoption of Code of Federal Regulations.* The following parts of the Code of Federal Regulations (April 1, 2021) are adopted:

- a. 21 CFR Part 1, Sections 1.20 to 1.24 and Subpart O, Sections 1.900 to 1.934 (labeling).
- b. 21 CFR Part 7, Sections 7.1 to 7.13 and 7.40 to 7.59 (guaranty and recalls).
- c. 21 CFR Part 70, Sections 70.20 to 70.25 (labeling requirements for colors).
- d. 21 CFR Part 73, Sections 73.1 to 73.615 (color additives exempt from certification).
- e. 21 CFR Part 74.101 to 74.706 (listing of color additives subject to certification).
- f. 21 CFR Part 81, general specifications and general restrictions for provisional color additives for use in foods, drugs, and cosmetics.
- g. 21 CFR Part 82, Sections 82.3 to 82.706 (certified provisionally listed colors and specifications).
- h. 21 CFR Part 100, Section 100.155 (specific provisions for salt and iodized salt).
- i. 21 CFR Part 101, except Sections 101.69 and 101.108 (food labeling).
- j. 21 CFR Part 102, except Section 102.19 (common or usual name for nonstandard food).
- k. 21 CFR Part 104, nutritional quality guidelines for foods.
- l. 21 CFR Part 105, food for special dietary use.
- m. 21 CFR Part 106, except Section 106.120 (infant formula quality control procedures).
- n. 21 CFR Part 107, except Sections 107.200 to 107.280 (infant formula labeling).

- o.* 21 CFR Part 108, Sections 108.25 to 108.35 (exceptions for when a permit is not required, acidified and thermal processing of low-acid foods packaged in hermetically sealed containers).
- p.* 21 CFR Part 109, unavoidable contaminants in food for human consumption and food-packaging material.
- q.* 21 CFR Part 110, current good manufacturing practice in manufacturing, packing or holding human food.
- r.* 21 CFR Part 111, current good manufacturing practice in manufacturing, packaging, labeling, or holding operations for dietary supplements.
- s.* 21 CFR Part 113, thermally processed low-acid food packaged in hermetically sealed containers.
- t.* 21 CFR Part 114, acidified foods.
- u.* 21 CFR Part 115, shell eggs.
- v.* 21 CFR Part 117, current good manufacturing practice and hazard analysis and risk-based preventive controls for human food shall apply, with the following exceptions:
 - (1) Qualified facilities, as defined in 21 CFR 117, shall not include food processing plants manufacturing foods for interstate commerce or for use as an ingredient to other foods.
 - (2) Warehousing operations located on the premises of residences that store food for sale directly to a consumer customer or at a farmers market shall comply with subparts A, B, and F of 21 CFR 117.
- w.* 21 CFR Part 118, production, storage and transportation of shell eggs.
- x.* 21 CFR Part 120, hazard analysis and critical control point (HACCP) systems (juice).
- y.* 21 CFR Part 123, fish and fisheries products (seafood).
- z.* 21 CFR Part 129, processing and bottling of bottled drinking water.
- aa.* 21 CFR Part 130, except Sections 130.5, 130.6 and 130.17, food standards: general.
- ab.* 21 CFR Part 131, milk and cream.
- ac.* 21 CFR Part 133, cheeses and related cheese products.
- ad.* 21 CFR Part 135, frozen desserts.
- ae.* 21 CFR Part 136, bakery products.
- af.* 21 CFR Part 137, cereal flours and related products.
- ag.* 21 CFR Part 139, macaroni and noodle products.
- ah.* 21 CFR Part 145, canned fruits.
- ai.* 21 CFR Part 146, canned fruit juices.
- aj.* 21 CFR Part 150, fruit butters, jellies, preserves, and related products.
- ak.* 21 CFR Part 152, fruit pies.
- al.* 21 CFR Part 155 (canned vegetables).
- am.* 21 CFR Part 156, vegetable juices.
- an.* 21 CFR Part 158, frozen vegetables.
- ao.* 21 CFR Part 160, egg and egg products.
- ap.* 21 CFR Part 161, fish and shellfish.
- aq.* 21 CFR Part 163, cacao products.
- ar.* 21 CFR Part 164, tree nut and peanut products.
- as.* 21 CFR Part 165, beverages.
- at.* 21 CFR Part 166, margarine.
- au.* 21 CFR Part 168, sweeteners and table syrups.
- av.* 21 CFR Part 169, food dressings and flavorings.
- aw.* 21 CFR Part 170, except Sections 170.6, 170.15, and 170.17, food additives.
- ax.* 21 CFR Part 172, food additives permitted for direct addition to food for human consumption.
- ay.* 21 CFR Part 173, secondary direct food additives permitted in food for human consumption.
- az.* 21 CFR Part 174, indirect food additives: general.
- ba.* 21 CFR Part 175, indirect food additives: adhesives and components of coatings.
- bb.* 21 CFR Part 176, indirect food additives: paper and paperboard components.
- bc.* 21 CFR Part 177, indirect food additives: polymers.
- bd.* 21 CFR Part 178, indirect food additives: adjuvants, production aids, and sanitizers.
- be.* 21 CFR Part 180, food additives permitted in food or in contact with food on an interim basis pending additional study.
- bf.* 21 CFR Part 181, prior-sanctioned food ingredients.
- bg.* 21 CFR Part 182, substances generally recognized as safe.
- bh.* 21 CFR Part 184, direct food substances affirmed as generally recognized as safe.
- bi.* 21 CFR Part 186, indirect food substances affirmed as generally recognized as safe.
- bj.* 21 CFR Part 189, substances prohibited from use in human food.

bk. 21 CFR Part 190, dietary supplements.

31.2(10) *Egg products processing plants.* The department shall generally use the good manufacturing practices adopted in paragraph 31.2(9)“*b*,” unless such practices are inconsistent with standards set by the United States Department of Agriculture, Food Safety and Inspection Service, in 9 CFR Parts 590-592, January 1, 2018. If the standards are inconsistent, the standards adopted in 9 CFR Parts 590-592, January 1, 2018, apply.

31.2(11) *Specific requirements for the manufacture of packaged ice.* In addition to compliance with subrules 31.2(1) through 31.2(9), manufacturers of packaged ice must comply with the following:

a. Equipment must be cleaned on a schedule of frequency that prevents the accumulation of mold, fungus and bacteria. A formal cleaning program and schedule which include the use of sanitizers to eliminate microorganisms must be developed and used.

b. Packaged ice must be tested every 120 days for the presence of bacteria.

c. Plants that use a nonpublic water system must sample the water supply monthly for the presence of bacteria and annually for chemical and pesticide contamination as required by law.

This rule is intended to implement Iowa Code section 137F.2.

[ARC 1191C, IAB 11/27/13, effective 1/1/14; ARC 1928C, IAB 4/1/15, effective 5/6/15; ARC 2257C, IAB 11/25/15, effective 12/30/15; ARC 3188C, IAB 7/5/17, effective 8/9/17; ARC 4140C, IAB 11/21/18, effective 1/1/19; ARC 5119C, IAB 7/29/20, effective 9/2/20; ARC 5845C, IAB 8/11/21, effective 9/15/21; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—31.3(137F) Adulterated food and disposal. No one may produce, distribute, offer for sale or sell adulterated food. “Adulterated” is defined in the federal Food, Drug, and Cosmetic Act, Section 402. Adulterated food shall be disposed of in a reasonable manner as determined by the department. The destruction of adulterated food shall be watched by a person approved by the department.

This rule is intended to implement Iowa Code section 137F.2.

[ARC 1191C, IAB 11/27/13, effective 1/1/14; ARC 6568C, IAB 10/5/22, effective 11/9/22]

481—31.4(137D,137F) False label or defacement. No person shall use any label required by Iowa Code chapter 137D or 137F which is deceptive as to the true nature of the article or place of production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this chapter.

This rule is intended to implement Iowa Code sections 137D.2 and 137F.2.

[ARC 1191C, IAB 11/27/13, effective 1/1/14; ARC 5353C, IAB 12/30/20, effective 2/3/21]

481—31.5(137F) Temporary food establishments and farmers market time/temperature control for safety food licensees. While the retail food code adopted in rule 481—31.1(137F) applies to temporary food establishments, the following subrules provide a simplified version of requirements for temporary food establishments. If the two rules are inconsistent, the standards in this rule apply.

31.5(1) *Personnel.* For the purposes of this rule, employees include volunteers.

a. Employees shall keep their hands and exposed portions of their arms clean.

b. Employees shall have clean garments and aprons and effective hair restraints. Smoking, eating or drinking in food booths is not allowed. All nonworking, unauthorized persons are to be kept out of the food booth.

c. All employees, including volunteers, shall be under the direction of the person in charge. The person in charge shall ensure that the workers are effectively cleaning their hands, that time/temperature control for safety food is adequately cooked, held or cooled, and that all multiuse equipment or utensils are adequately washed, rinsed and sanitized.

d. Employees and volunteers shall not work at a temporary food establishment or farmers market time/temperature control for safety food establishment if the employees and volunteers have open cuts, sores or communicable diseases. The person in charge shall take appropriate action to ensure that employees and volunteers who have a disease or medical condition transmissible by food are excluded from the food operation.

e. Every employee and volunteer must sign a logbook with the employee’s or volunteer’s name, address, and telephone number and the date and hours worked. The logbook must be maintained for 30 days by the person in charge and be made available to the department upon request.

31.5(2) *Food handling and service.*

a. ***Dry storage.*** All food, equipment, utensils and single-service items shall be stored off the ground and above the floor on pallets, tables or shelving.

b. ***Cold storage.*** Refrigeration units shall be provided to keep time/temperature control for safety foods at 41°F or below. The inspector may approve an effectively insulated, hard-sided container with sufficient coolant for storage of time/temperature control for safety food at events of short duration if the container maintains the temperature at 41°F or below.

c. Hot storage. Hot food storage units shall be used to keep time/temperature control for safety food at 135°F or above. Electrical equipment is required for hot holding, unless the use of propane stoves and grills capable of holding the temperature at 135°F or above is approved by the department. Sterno cans are allowed for hot holding if adequate temperatures can be maintained. Steam tables or other hot holding devices are not allowed to heat foods and are to be used only for hot holding after foods have been adequately cooked.

d. Cooking temperatures. As specified in the following chart, the minimum cooking temperatures for food products are:

165°F	• Poultry and game animals that are not commercially raised • Products stuffed or in a stuffing that contains fish, meat, pasta, poultry or ratite • All products cooked in a microwave oven
155°F	• Rabbits, ratite and game meats that are commercially raised • Ground or comminuted (such as hamburgers) meat/fish products • Raw shell eggs not prepared for immediate consumption
145°F	• Pork and raw shell eggs prepared for immediate consumption • Fish and other meat products not requiring a 155°F or 165°F cooking temperature as listed above

e. Consumer advisory requirement. If raw or undercooked animal food such as beef, eggs, fish, lamb, poultry or shellfish is offered in ready-to-eat form, the license holder (person in charge) shall post the consumer advisory as required by the food code.

f. Thermometers. Each refrigeration unit shall have a numerically scaled thermometer to measure the air temperature of the unit accurately. An appropriate thermometer shall be provided where necessary to check the internal temperature of both hot and cold food. Thermometers must be accurate and have a range from 0°F to 220°F.

g. Food display. Foods on display must be covered. The public is not allowed to serve itself from opened containers of food or uncovered food items. Condiments such as ketchup, mustard, coffee creamer and sugar shall be served in individual packets or from squeeze containers or pump bottles. Milk shall be dispensed from the original container or from an approved dispenser. All fruits and vegetables must be washed before being used or sold. Food must be stored at least six inches off the ground. All cooking and serving areas shall be adequately protected from contamination. Barbeque areas shall be roped off or otherwise protected from the public. All food shall be protected from customer handling, coughing or sneezing by wrapping, sneeze guards or other effective means.

h. Food preparation. Unless otherwise approved by a variance from the department, no bare-hand contact of ready-to-eat food shall occur.

i. Approved food source. All food supplies shall come from a commercial manufacturer or an approved source. The use of food in hermetically sealed containers that is not prepared in an approved food processing plant or home food processing establishment is prohibited. Transport vehicles used to supply food products are subject to inspection and shall protect food from physical, chemical and microbial contamination. Cottage foods may be offered for sale in a temporary food establishment if the temporary food establishment is operated by the cottage food producer and the cottage food is offered for sale in a packaged form and labeled pursuant to 481—paragraph 30.13(1) “g.”

j. Leftovers. Hot-held foods that are not used by the end of the day must be discarded.

31.5(3) Utensil storage and warewashing.

a. Single-service utensils. The use of single-service plates, cups and tableware is required.

b. Dishwashing. If approved, an adequate means to heat the water and a minimum of three basins large enough for complete immersion of the utensils are required to wash, rinse and sanitize utensils or food-contact equipment.

c. Sanitizers. Chlorine bleach or another approved sanitizer shall be provided for warewashing sanitization and wiping cloths. An appropriate test kit shall be provided to check the concentration of the sanitizer used. The person in charge shall demonstrate knowledge in the determination of the correct concentration of sanitizer to be used.

d. Wiping cloths. Wiping cloths shall be stored in a clean, 100 ppm chlorine sanitizing solution or equivalent. Sanitizing solution shall be changed as needed to maintain the solution in a clean condition.

31.5(4) Water.

a. Water supply. An adequate supply of clean water shall be provided from an approved source. Water storage units and hoses shall be food grade and approved for use in storage of water. If not permanently attached, hoses used to convey drinking water shall be clearly and indelibly identified as to their use. Water supply systems shall be protected against backflow or contamination of the water supply. Backflow prevention devices, if required, shall be maintained and adequate for their intended purpose.

b. Wastewater disposal. Wastewater shall be disposed of in an approved wastewater disposal system sized, constructed, maintained and operated according to law.

31.5(5) Premises.

a. Hand-washing container. An insulated container with at least a two-gallon capacity with a spigot, basin, soap and dispensed paper towels shall be provided for hand washing. The container shall be filled with hot water.

b. Floors, walls and ceilings. If required, walls and ceilings shall be of tight design and weather-resistant materials to protect against the elements and flying insects. If required, floors shall be constructed of tight wood, asphalt, rubber or plastic matting or other cleanable material to control dust or mud.

c. Lighting. Adequate lighting shall be provided. Lights above exposed food preparation areas shall be shielded.

d. Food preparation surfaces. All food preparation or food contact surfaces shall be of a safe design, smooth, easily cleanable and durable.

e. Garbage containers. An adequate number of cleanable containers with tight-fitting covers shall be provided both inside and outside the establishment.

f. Toilet rooms. An adequate number of approved toilet and hand-washing facilities shall be provided at each event.

g. Clothing. Personal clothing and belongings shall be stored at a designated place in the establishment, adequately separated from food preparation, food service and dishwashing areas.

This rule is intended to implement Iowa Code sections 137D.2 and 137F.2.

[ARC 1191C, IAB 11/27/13, effective 1/1/14; ARC 4140C, IAB 11/21/18, effective 1/1/19; ARC 6568C, IAB 10/5/22, effective 11/9/22]

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[Filed ARC 6568C (Notice ARC 6455C, IAB 8/10/22), IAB 10/5/22, effective 11/9/22]

- ¹ Rules 30—33.1(159) to 30—33.4(159) and 30—34.1(159) to 30—34.4(159) transferred to Inspections and Appeals Department[481] and rescinded.
- ² Rule 481—31.1(137F) published in the July 5, 2017, IAB as ARC 3188C has a January 1, 2018, effective date. For the rule in effect immediately prior to January 1, 2018, see 481—Chapter 31 as of June 21, 2017.

CHAPTER 32

CONSUMABLE HEMP PRODUCTS

Transferred to 641—Chapter 156, IAC Supplement 6/14/23

CHAPTER 33

FOOD AND BEVERAGE VENDING MACHINES INSPECTIONS

[Prior to 8/26/87, see Inspections and Appeals Department[481]—Ch 24]

Rescinded IAB 2/10/99, effective 3/17/99

CHAPTER 34

HOME FOOD PROCESSING ESTABLISHMENTS

481—34.1(137D) Definitions. As used in this chapter, unless the context otherwise requires:

“Acidified foods” means low-acid foods to which an acid or high-acid food is added. Acidified foods have a water activity (a_w) greater than 0.85 and have a finished equilibrium pH of 4.60 or below. These foods may be called or may purport to be “pickles” or “pickled.”

“Active water” or *“water activity”* or *“(a_w)”* means the measured free moisture in a food. The quotient of the water vapor pressure of the food divided by the vapor pressure of pure water at the same temperature provides the measured free moisture in the food.

“Adulterated” means the same as stated 21 U.S.C. Section 342 as amended to January 3, 2022.

“Allergen cross contact” means the unintentional incorporation of a food allergen into a food.

“Contractor” means a municipal corporation, county, or other political subdivision that contracts with the department to license and inspect under Iowa Code chapter 137D.

“Cross contamination” means the inadvertent transfer of bacteria or other contaminants from one surface, substance, etc., to another, especially because of unsanitary handling procedures.

“Demonstrate control” means the ability to provide clear and convincing evidence that a home food processing establishment has implemented written standard processes and practices that are intended to control food safety hazards including but not limited to standardized recipes, standard operating procedures, personal hygiene standards, temperature monitoring records, equipment calibration records, production or batch records, sanitation records, predefined corrective actions, training documents, distribution records, and receiving records.

“Department” means the same as defined in Iowa Code section 137D.1.

“Equilibrium pH” means the final pH measured in a food after all the components of the food have achieved the same acidity.

“Fermentation” means a metabolic process in which an organism converts a carbohydrate, such as starch or a sugar, into an alcohol or an acid. For example, yeast performs fermentation by converting sugar into alcohol. Bacteria perform fermentation by converting carbohydrates into lactic acid.

“Fish” means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

“Food” means the same as defined in Iowa Code section 137D.1.

“Food contact surface” means a surface of equipment or utensil with which food normally comes into contact; or a surface of equipment or utensil from which food may drip, drain, or splash into a food or onto a surface normally in contact with food.

“Game animal” means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2 or as poultry or fish.

1. “Game animal” includes mammals, such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles, such as land snakes.

2. “Game animal” does not include ratites.

“HACCP plan” means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

“High-acid food” means a food that has an equilibrium pH of 4.60 or lower without the addition of an acid.

“Home food processing establishment” or *“establishment”* means the same as “home food processing establishment” as defined in Iowa Code section 137D.1.

“Homemade food item” means the same as defined in Iowa Code section 137D.1. Homemade food items do not include the following:

1. Unpasteurized fruit or vegetable juice;
2. Raw sprout seeds;
3. Foods containing game animals;
4. Fish or shellfish;
5. Alcoholic beverages;
6. Bottled water;
7. Packaged ice;
8. Consumable hemp products;

9. Food that will be further processed by a food processing plant or another home food processing establishment;
10. Time/temperature control for safety food packaged using a reduced oxygen packaging method;
11. Milk or milk products regulated under Iowa Code chapters 192 and 194;
12. Meat or meat food products, and poultry or poultry products regulated under Iowa Code chapter 189A, except for any of the following products when sold directly to the end consumer:

- Poultry, poultry byproduct, or poultry food product if the producer raised the poultry pursuant to the exemption set forth in 9 CFR 381.10(c)(1) limiting the producer to slaughtering not more than one thousand poultry during the calendar year;
- Poultry, poultry byproduct, or poultry food product if the poultry is from an inspected source exempted pursuant to 9 CFR 381.10(d); or
- Meat, meat byproduct, or meat food product if the meat is from an inspected source exempted pursuant to 9 CFR 303.1(d); or

13. A raw agricultural commodity. Other than raw bean or seed sprouts, raw agricultural commodities do not require a license issued by the department to sell and may be sold by home food processing establishments, although they are not homemade food items.

“Low-acid canned food” means a thermally processed low-acid food packaged in a hermetically sealed container.

“Low-acid food” means any food, other than alcoholic beverages, with a pH greater than 4.60 and (a_w) greater than 0.85.

“Major food allergen” means milk, egg, fish, crustacean shellfish (such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, soybeans, and sesame; or a food ingredient that contains protein derived from these foods.

“Packaged” means bottled, canned, cartoned, bagged, or wrapped. “Packaged” does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

“pH” means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity, and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

“Produce” means the same as defined in Iowa Code section 137D.1.

“Raw agricultural commodity” means the same as defined in 21 U.S.C. Section 321 as amended to April 1, 2023.

“Ready-to-eat food” means any food that is normally eaten in its raw state or any other food, including a processed food, for which it is reasonably foreseeable that the food will be eaten without further processing that would significantly minimize biological hazards.

“Recall” means an action taken when a food producer takes a product off the market because there is reason to believe the product may cause consumers to become ill.

“Reduced oxygen packaging” means reducing the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21 percent at sea level). Reduced oxygen packaging includes vacuum packaging, modified atmosphere packaging, controlled atmosphere packaging, cook chill packaging, and sous vide packaging.

“Shellfish”

1. “Crustacean shellfish” means crab, lobster and shrimp.
2. “Molluscan shellfish” means any edible species of oysters, clams, mussels, or scallops.

“Special dietary use food” includes a food that contains an artificial sweetener, except when specifically and solely used for achieving a physical characteristic in the food that cannot be achieved with sugar or other nutritive sweetener or a food that is used for the following:

1. Supplying particular dietary needs that exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;
2. Supplying particular dietary needs that exist by reason of age including but not limited to infancy and childhood; or
3. Supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property. Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

“Sprouts” means seeds or beans used to grow sprouts that are harvested with their seed or root intact.

“Standardized recipe” means a recipe that has been tried, adapted, and retried several times for use by a given food service operation and has been found to produce the same good results and yield every time when the exact

procedures are followed with the same type of equipment and same quantity and quality of ingredients. At a minimum, a standardized recipe includes the recipe name, listing of each ingredient, a measurement of each ingredient, equipment and utensils used, preparation instructions, and procedures to ensure the safety of the food.

“Time/temperature control for safety” or “TCS” means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation. TCS food does not include foods that have an equilibrium pH less than 4.60 or (a_w) content below 0.85. Examples of TCS foods include:

1. Animal food that is raw or heat-treated.
2. Plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or garlic-in-oil mixtures.

“Traceback” means to determine and document the distribution and production chain and the source(s) of a product that has been implicated in a foodborne illness investigation.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.2(137D) Licensing.

34.2(1) *Application for license.* A person shall not operate a home food processing establishment until a license has been obtained from the department or a contractor. Application for a license shall be made on a form furnished by the department containing the name of the business, name of the owner, physical address of the business, and list of all homemade food items the home food processing establishment intends to prepare. Applications for a license shall be completed using the department’s online application system at least 30 days prior to the anticipated opening of the home food processing establishment. If extenuating circumstances exist that prevent the applicant from completing the online application, paper applications are available from the department or a contractor.

34.2(2) *Homemade food item disclosure.* Homemade food items not listed on the application shall not be sold or distributed. New homemade food items may be added to an application at any time using the online application system or by submission of a paper form to the department or a contractor.

34.2(3) *Transferability.* A license is not transferable to a new owner or location. Any change in business ownership or business location requires a new license.

34.2(4) *Refunds.* License fees are refundable only if the license is surrendered to the department or a contractor prior to the effective date of the license. License fees are not refundable for a new home food processing establishment if a record review has occurred.

34.2(5) *Expiration and renewal.* A home food processing establishment license, unless sooner suspended or revoked, expires one year after the application for license is approved by the department or a contractor. A renewal should be submitted through the department’s online registration system with the required fee prior to expiration.

34.2(6) *Renewal 60 days or more after expiration.* A delinquent license will only be renewed if application for renewal is made within 60 days of expiration. If a delinquent license is not renewed within 60 days, an establishment shall apply for a new license and meet all of the requirements for an initial license. An establishment that has not renewed the license within 60 days of expiration will be closed by the department or a contractor.

34.2(7) *Documentation of gross sales.* The license holder shall maintain documentation of annual gross sales of homemade food items and provide it to the regulatory authority upon request. Documentation of gross sales includes at least one of the following and will be kept confidential:

- a. A copy of the establishment’s business tax return;
- b. Four quarters of gross sales of homemade food items;
- c. A letter from an independent tax preparer; or
- d. Other records documenting annual gross sales of homemade food items.

34.2(8) *Returned payments.* The department or a contractor will attempt to redeem a payment submitted for an establishment that is not honored by the bank on which it is drafted and will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 will be assessed for each dishonored payment. If the department or a contractor does not receive payment, the establishment will be operating without a valid license.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.3(137D) Physical facilities and equipment.

34.3(1) The floors, walls, ceilings, utensils, equipment, and supplies in the food processing and storage areas, and all vehicles used in the transportation of homemade food items, shall be maintained clean and in good repair.

34.3(2) Outer openings shall be protected by tight-fitting doors, windows, or screens.

34.3(3) Dogs, cats, or other pets and animals shall be excluded from entering food preparation areas when food is being processed or packaged.

34.3(4) Persons unnecessary to the production of homemade food items are not allowed in food processing areas while homemade food items are exposed or being produced.

34.3(5) Adequate lighting and ventilation shall be available in all areas where food is processed or stored.

34.3(6) An establishment shall have an adequate supply of hot and cold potable water under pressure from an approved and safe source. In addition:

- a. There shall be no direct or indirect connection of safe and unsafe water;
- b. If the residence is not served by a public water system, the water shall be tested at least annually for nitrates and coliforms;
- c. In the event a water test shows coliforms are present or nitrates are at an unsafe level, the establishment shall cease operations and notify the regulatory authority. The establishment will not resume operations until approved by the regulatory authority; and
- d. If the establishment's water source is under a water advisory indicating the water may be unsafe to consume, it shall not produce homemade food items until the advisory is lifted.

34.3(7) There shall be a conveniently located sink in each food processing area that is maintained clean and accessible for handwashing during production and packaging and supplied with hot and cold running water, hand soap, and sanitary towels.

34.3(8) An establishment shall have adequate equipment, such as a sink or dishwasher, to wash, rinse, and sanitize utensils.

34.3(9) There shall be conveniently located toilet facilities, equipped with a handwashing sink supplied with hot and cold running water, hand soap and sanitary towels or a hand-drying device.

34.3(10) All waste and wastewater produced by the establishment shall be disposed of in a sanitary manner in compliance with applicable laws. If the home food processing establishment has a waste backup, it shall cease operation and notify the regulatory authority. It will not resume preparation of homemade food items until approved by the regulatory authority.

34.3(11) All garbage and refuse shall be kept in containers and removed from the premises regularly to eliminate insects and rodents, offensive odors, or other health hazards. Garbage and refuse containers shall be durable, easy to clean, insect- and rodent-resistant, and of material that neither leaks nor absorbs liquid.

34.3(12) Food processing and storage areas shall be free of pests. Pesticides, if used, shall be approved for use in commercial food establishments, clearly labeled, and used as directed by the manufacturer.

34.3(13) Hazardous chemicals or other toxic materials shall be stored, applied and used as directed by the manufacturer in a manner that protects food, equipment, and food contact surfaces from contamination.

34.3(14) Refrigeration and hot holding equipment design and capacity shall be adequate to maintain safe temperature control, including safe cooling temperatures, to prevent cross contamination and allergen cross contact and protect food from other sources of contamination. Dedicated refrigeration or hot holding equipment may be required if shared equipment is inadequate to maintain food safety.

34.3(15) All refrigeration and hot holding units shall be equipped with an accurate thermometer.

34.3(16) Appropriate thermometers shall be used to accurately measure the internal temperature of food during processing, holding, and storage.

34.3(17) All food contact surfaces shall be intended for use with food, made of safe materials, easy to clean, smooth, durable, nonabsorbent, and noncorrosive.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.4(137D) Management and personnel.

34.4(1) *Person in charge.* There shall be a person in charge of operations during all hours of food processing who has a thorough understanding of food safety principles and is able to demonstrate control over food safety hazards, including:

- a. Time/temperature controls for cooking, hot holding, cooling, cold holding, and reheating foods;
- b. Cross contamination during storage and preparation;
- c. Major food allergens and allergen cross contact;
- d. Sanitation of food contact surfaces;
- e. Food handling, hygienic practices, and communicable diseases;
- f. Receiving and distribution; and
- g. If applicable, pH and (a_w).

34.4(2) *Food safety training.* The person in charge shall attend a food safety training course approved by the department and provide proof of attendance prior to the issuance of a home food processing establishment license.

34.4(3) Exclusions from handling food. A food handler shall be excluded from handling food, utensils, or packaging materials if the food handler:

- a. Is diagnosed with a communicable or contagious disease that can be transmitted through food;
- b. Has experienced diarrhea or vomiting in the past 24 hours;
- c. Is jaundiced;
- d. Has a sore throat with a fever; or
- e. Has exposed sores or infected wounds on the food handler's hands or arms.

34.4(4) Hygienic practices.

- a. A food handler must keep the food handler's person and clothing clean and hair effectively restrained and wash the food handler's hands as often as necessary to protect food and food contact surfaces from contamination.
- b. Ready-to-eat foods must not be handled with bare hands.
- c. Eating, drinking, and use of tobacco is not permitted in food processing areas while homemade food items are exposed or being produced.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.5(137D) Receiving, storage, and distribution.

34.5(1) Receiving. All foods and ingredients shall be obtained from an approved source and have been produced in compliance with applicable law. Honey from an unlicensed establishment and eggs from the establishment's own flock may be used in the preparation of homemade food items. All food shall be received in sound condition; at safe temperatures; free from spoilage, filth, or other contamination; unadulterated; and safe for human consumption.

34.5(2) Storage. Food storage areas shall be clean and located in an area that protects the food from contamination at all times. All food products shall be stored off of the floor. If removed from the original container, foods shall be stored in labeled and closed containers that are of a material that will not cause the food to become adulterated.

34.5(3) Distribution.

- a. Foods containing raw or undercooked foods of animal origin will not be sold or distributed in a ready-to-eat form.
- b. Foods produced in a home food processing establishment shall not be distributed for further processing by a food processing plant or another home food processing establishment.
- c. Time/temperature control for safety homemade food items shall be maintained at safe temperatures during shipping and transportation to an end consumer, a mobile food unit, a farmers market food establishment, or a temporary food establishment operated by the same owner as the home food processing establishment.
- d. Time/temperature control for safety homemade food items sold or distributed to other businesses for resale shall be maintained at or below 41°F during shipping and transportation.
- e. No one may produce, distribute, offer for sale, or provide adulterated food to the public. Adulterated food shall be disposed of in a reasonable manner approved by the department.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.6(137D) Food preparation and protection.

34.6(1) Food protection. Foods shall be processed, stored, and distributed in a manner that protects food from contamination, including cross contamination from the environment, and allergen cross contact.

34.6(2) Cooking. All animal foods or foods containing animal products, if cooked, shall be cooked to an internal temperature sufficient to destroy organisms that are injurious to health. Homemade food items shall not contain raw or undercooked animal foods except for packaged raw meat or poultry items labeled with safe handling instructions informing the consumer how to safely store, prepare, and handle raw meat and poultry products in the home.

34.6(3) Holding. All time/temperature control for safety foods shall be held at an internal temperature of 41°F or less or 135°F or higher to control bacterial growth or toxin formation.

34.6(4) Cooling.

- a. Time/temperature control for safety foods that have been heat-treated shall be cooled from 135°F to 70°F within two hours and from 70°F to 41°F within an additional four hours. Total cooling time shall not exceed six hours.
- b. Time/temperature control for safety foods prepared with ingredients above 41°F shall be cooled to 41°F or below within four hours from the beginning of preparation.

34.6(5) Reheating.

- a. Homemade food items that are time/temperature control for safety and have been previously heated and cooled shall be reheated to an internal temperature of 165°F within two hours or less.

b. Commercially processed time/temperature control for safety foods shall be reheated to 135°F within two hours or less.

34.6(6) Preparation methods.

a. High-acid foods that are produced and sold by the establishment and that are controlled by pH, such as barbeque sauce, condiments, and dressings, may be produced as homemade food items if:

- (1) The product has been produced following a standardized recipe;
- (2) The product does not contain more than 10 percent low-acid food ingredients by weight;
- (3) The product recipe, including the name and weight of each ingredient, is submitted and approved by the regulatory authority;
- (4) The product's equilibrium pH of each batch is tested with a calibrated pH tester designed for use with food. The pH shall be below 4.60, and the pH value shall be recorded on a production or batch record; and
- (5) The product is adequately heated to destroy spoilage organisms.

b. Dried foods that are produced and sold under the home food processing establishment license that are controlled by (a_w), such as dehydrated or freeze-dried food may be produced as a homemade food item if:

- (1) The products have been produced following a standardized recipe;
- (2) The homemade food items do not contain raw or undercooked foods of animal origin; and
- (3) Each batch is tested for (a_w) or the standardized written procedure for each homemade food item has been validated to ensure the final product is at or below 0.85 (a_w).

c. Jams, jellies, preserves, and fruit butters that are produced and sold under the home food processing establishment license shall meet the standard of identity specified in 21 CFR Part 150 as amended to April 1, 2023, and be produced following a standardized recipe. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets the standard of identity when requested by the regulatory authority.

d. Nonstandardized fruit jellies shall be produced following a standardized recipe and made with 45 parts of fruit to 55 parts of sugar and concentrated to 65 percent soluble solids. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets this requirement when requested by the regulatory authority.

e. Nonstandardized nonfruit jellies shall be produced following a standardized recipe and shall have a soluble solids content of 65 percent. The home food processing establishment shall provide documentation, such as an analysis from an accredited food laboratory, that a product meets this requirement when requested by the regulatory authority.

f. Standardized sweeteners and table syrups shall meet the standard of identity specified in 21 CFR Part 168 as amended to April 1, 2023. The home food processing establishment shall provide documentation that a product meets this requirement when requested by the regulatory authority.

g. A home food processing establishment that wishes to prepare foods using fermentation shall submit an HACCP plan to the department that has been validated by a recognized process authority, such as those provided on the department's website. A home food processing establishment shall not ferment food until the department has approved the HACCP plan.

h. A home food processing establishment shall not engage in the following processes to produce homemade food items:

- (1) Low-acid canning (e.g., canned vegetables);
- (2) Acidification to produce shelf-stable acidified foods (e.g., salsa, pickled vegetables, hot sauce);
- (3) Curing (e.g., bacon, jerky, meat sticks); or
- (4) Smoking food for preservation rather than flavor enhancement.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.7(137D) Packaging and labeling requirements.

34.7(1) Legible labels. All required labeling information shall be legible and in a location that is easily identifiable by the consumer.

34.7(2) Labels and packaging on homemade food items, exception. A homemade food item shall be packaged in the home food processing establishment, and all required labeling shall be affixed to the homemade food item before it is delivered to the consumer, with the exception of a homemade food item picked up by the consumer in person at the home food processing establishment. In the case of the exception, the homemade food item shall still be protected from contamination and all required labeling information shall be provided to the consumer.

34.7(3) *Raw meat and poultry products.* Packaged homemade food items that contain raw meat or poultry shall be labeled with safe handling instructions informing the consumer how to safely store, prepare, and handle raw meat and poultry products in the home.

34.7(4) *Expiration date.* Refrigerated time/temperature control for safety homemade food items that are ready-to-eat foods shall be labeled with an expiration date not to exceed seven days from the date of preparation, and the date of preparation is counted as day one. Time/temperature control for safety homemade food items may be labeled with an expiration date that exceeds seven days if the expiration date has been determined to be safe by an accredited food science institution and documentation is provided to the regulatory authority upon request.

34.7(5) *Contents.*

- a. Homemade food items will be identified as required by Iowa Code section 137D.2(7).
- b. Labels or other marketing materials associated with homemade food items must be truthful and not misleading.
- c. Claims on labels or other marketing materials associated with homemade food items that are related to the following must conform to the United States Food and Drug Administration's (FDA's) Food Labeling Guide (January 2013). A link to the labeling guide may be found on the department's website or on the FDA's website.
 - (1) Health claims;
 - (2) Qualified health claims;
 - (3) Nutrient content claims (e.g., low sodium, high fiber, low fat, sugar free); or
 - (4) Structure/function claims.
- d. Homemade food items labeled or marketed as a special dietary use food will conform to 21 CFR Part 105 as amended to April 1, 2023. The home food processing establishment shall provide documentation, such as a nutritional analysis by an accredited food laboratory, to the regulatory authority upon request.
- e. Labels or other marketing materials shall not contain any claims that the homemade food item can be used in the diagnosis, cure, mitigation, treatment, or prevention of disease.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.8(137D) Sanitation.

34.8(1) There shall be sufficient means to clean, rinse, and sanitize all multi-use food contact surfaces. Cleaners and sanitizers used for these purposes shall be intended and approved for use in a commercial food establishment.

34.8(2) All food contact surfaces shall be clean to sight and touch when not in use.

34.8(3) All food contact surfaces shall be cleaned and sanitized:

- a. Between each use;
- b. At least every four hours if under continuous use to control microbial growth;
- c. At a frequency necessary to prevent cross contamination; and
- d. At a frequency necessary to prevent allergen cross contact.

34.8(4) If chemical sanitizers are used, they shall be used according to the manufacturer directions for use, and a means shall be provided for testing the proper level of chemical concentration, such as test strips designed specifically for the chemical being used.

34.8(5) Food processing, handling, and storage areas shall be neat; clean; and free from excessive accumulation of product, dust, trash, and unnecessary articles.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.9(137D) Maintenance of records by licensee.

34.9(1) An establishment shall maintain standardized recipes for each homemade food item.

34.9(2) An establishment shall maintain production or batch records, including, at a minimum, product name, date of production, and date of packaging, with the exception of made-to-order food.

34.9(3) An establishment shall maintain records of foods received as ingredients, including, at a minimum, the name and address of the supplier, name of the ingredient, and date received. A receipt of purchase is a sufficient record if it contains all of the required information.

34.9(4) An establishment shall maintain distribution records of all homemade food items that are distributed for resale, including the product name, the name and address of the business where the homemade food items were distributed, the date distributed, the quantity distributed, and the date the homemade food item was produced.

34.9(5) An establishment not served by a public water system shall maintain records of annual water tests.

34.9(6) An establishment, if it produces homemade food items that require food safety parameters to be monitored throughout production, such as temperature, pH, or (a_w), shall use testing instruments as directed by the

manufacturer and calibrated for accuracy according to the manufacturer's instructions. Monitoring results shall be documented as part of the batch record.

34.9(7) An establishment shall maintain all required records for a minimum of six months. All required records shall be made available for official review or copying upon request by the regulatory authority.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.10(137D) Violations and enforcement.

34.10(1) All violations shall be corrected within a time frame not to exceed 90 days. The license holder shall make a written report to the regulatory authority, stating the action taken to correct the violation, within five days of correction.

34.10(2) An establishment that violates this chapter or Iowa Code chapter 137D is subject to a civil penalty as set forth in Iowa Code chapter 137D.

34.10(3) The department may employ various remedies in response to violations, including but not limited to civil penalty; suspending or revoking the license; injunction; or embargo, stop-sale, or recall orders.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.11(137D) Denial, suspension, or revocation of license.

34.11(1) *Denial, suspension, or revocation of a license.* Denial, suspension, or revocation of a license is effective 30 days after mailing or personal service of the notice. The department may suspend or revoke a license as set forth in Iowa Code section 137D.8. A certified copy of a final order or judgment of conviction or plea of guilty is conclusive evidence of a conviction.

A deferred judgment, until discharged, is a conviction for purposes of this rule.

34.11(2) *Immediate suspension of license.* To the extent not inconsistent with Iowa Code chapters 17A and 137D and rules adopted pursuant to those chapters, the department or a contractor may immediately suspend a license in cases of an imminent health hazard, as defined by chapter 8 of the 2017 FDA Food Code (the "food code"). The procedures of Iowa Code section 17A.18A and chapter 8 of the food code shall be followed in cases of an imminent health hazard.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.12(137D) Inspection and access to records.

34.12(1) Home food processing establishments will be periodically inspected based on a risk assessment basis, either in person or virtually using video technology.

34.12(2) The regulatory authority may enter a food processing establishment at any reasonable hour to make an inspection. The regulatory authority will inspect only those areas related to preparing or storing food for sale. The manager or person in charge of the establishment shall afford free access to records and every part of the premises where homemade food items and ingredients are stored or prepared and render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete inspection.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.13(137D) Public examination of records.

34.13(1) *Public information.* Information collected by the department and contractors is public information unless otherwise provided for by law. Records are stored in computer files and are not matched with any other data system. Inspection reports are available for public viewing at iowa.safefoodinspection.com.

34.13(2) *Confidential information.*

a. The following are examples of confidential records:

- (1) Trade secrets and proprietary information, including items such as formulations, standardized recipes, processes, policies and procedures, and customer lists;
- (2) Health information related to foodborne illness complaints and outbreaks;
- (3) The name or any identifying information of a person who files a complaint with the department; and
- (4) Other state or federal agencies' records.

b. A party claiming that information submitted to the department contains trade secrets or proprietary information should clearly mark those portions of the submission as confidential/trade secret.

34.13(3) *Other agencies' records.* Requests for records of other state or federal agencies will be referred to the appropriate agency.

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

481—34.14(137D) Appeals. An establishment may contest adverse action taken pursuant to this chapter by submitting a request for hearing to the department within 30 days of the mailing or service of the department's action. Appeals and hearings are governed by 481—Chapter 9. For contractors, license holders shall have the opportunity for a hearing before the local board of health. If the hearing is conducted before the local board of health, the license holder may appeal to the department and shall follow the process for review in rule 481—9.3(10A,17A).

[ARC 7810C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 137D.

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[Filed ARC 6569C (Notice ARC 6454C, IAB 8/10/22), IAB 10/5/22, effective 11/9/22]

[Filed ARC 7810C (Notice ARC 7157C, IAB 12/13/23), IAB 4/17/24, effective 5/22/24]

CHAPTER 35

CONTRACTOR REQUIREMENTS

481—35.1(137C,137D,137F) Definitions. The definitions in 481—30.2(10A,137C,137F) and Iowa Code sections 137C.2, 137D.1 and 137F.1 are hereby incorporated by reference as part of this chapter.

[ARC 6863C, IAB 2/8/23, effective 3/15/23]

481—35.2(137C,137D,137F) Contracts. A municipal corporation or county may enter into an agreement with the department to license, inspect and enforce under Iowa Code chapters 137C, 137D and 137F.

35.2(1) The department will investigate the municipal corporation or county to determine if it possesses adequate resources to fulfill the requirements of the contract.

35.2(2) A copy of the contract is available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083.

481—35.3(137C,137D,137F) Contractor. To enter into an agreement with the department, the contractor must comply with the requirements of this chapter and the applicable sections of the Iowa Code.

35.3(1) The contractor shall furnish the personnel, materials, services and facilities necessary to perform the required functions of the contract.

35.3(2) The contractor is not an authorized agent of the state of Iowa.

35.3(3) Rescinded IAB 4/9/08, effective 7/1/08.

35.3(4) The contractor shall cooperate with the department's monitoring activities in areas under the scope of this agreement.

35.3(5) In addition to the above, the contractor shall:

- a. Provide 24-hour-a-day, 7-day-per-week continuous coverage of the facilities under contract;
- b. Ensure that personnel are available at all times to respond to complaints, investigations, emergencies and other situations;
- c. Furnish appropriate backup personnel to maintain continuous coverage regardless of vacations, illnesses, vacant positions or other inspection staff absences;
- d. Supply trained personnel who are prepared and have the capability to perform inspections; and
- e. Provide other information as requested by the department in regard to inspections and licenses issued under the contract.

481—35.4(137C,137D,137F) Contractor inspection personnel. Contractor inspection personnel should possess the knowledge, skills and training necessary to perform the requirements of the contract.

35.4(1) Contractor inspection personnel must possess experience and education qualifications equal to those required for state food inspectors. Additionally, this experience must include application of the food code.

Municipal corporations or counties that wish to contract with the department to perform food inspections under Iowa Code chapters 137C, 137D and 137F, but who do not have trained personnel to perform these services, shall reimburse the department for the cost of providing the required training.

35.4(2) The salary received by contractor inspection personnel should be comparable to state inspection personnel.

35.4(3) Contractor inspection personnel shall participate in state-sponsored training activities.

481—35.5(137C,137D,137F) Investigation. The contractor shall investigate all alleged food-borne illnesses in areas licensed and inspected under this agreement. The contractor shall notify the department immediately of the existence of any food-borne or other illness caused by, or suspected to have been caused by, unsanitary conditions existing within the jurisdiction of the contractor.

481—35.6(137C,137D,137F) Inspection standards. Inspections shall be completed using forms prescribed by the department for those inspections. The contractor shall follow applicable standards for inspections found in Iowa Code chapters 137C, 137D and 137F. Inspections shall be conducted pursuant to 481—Chapters 30, 31, 34, 35, and 37.

Copies of inspection standards are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083.

[ARC 6863C, IAB 2/8/23, effective 3/15/23]

481—35.7(137C,137D,137F) Enforcement. The contractor shall enforce state laws and rules, including regulations adopted by reference. These regulations are the legal basis of authority in licensing and inspection of establishments under this contract.

481—35.8(137C,137D,137F) Licensing. The contractor shall issue licenses and collect license fees.

481—35.9(137C,137D,137F) Records. The contractor shall maintain records of all inspections, license applications and fees for a minimum of three years. Records shall be provided to the department upon its request.

481—35.10(137C,137D,137F) Contract rescinded. If the department determines that Iowa Code chapters 137C, 137D and 137F are not being enforced by the contractor, the department may rescind the agreement. Notification of the department's action will be provided to the contractor at least 30 days in advance of the action. The contractor has the right to request a hearing with the department to contest the action.

[ARC 6863C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code chapters 137C, 137D and 137F.

[Filed 12/20/90, Notice 10/31/90—published 1/9/91, effective 2/13/91]

[Filed 4/12/91, Notice 3/6/91—published 5/1/91, effective 6/5/91]

[Filed 3/21/08, Notice 12/5/07—published 4/9/08, effective 7/1/08]

[Filed ARC 6863C (Notice ARC 6743C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

CHAPTER 36
EGG HANDLERS

Rescinded **ARC 0989C**, IAB 9/4/13, effective 10/9/13; see 21—Chapter 36

CHAPTER 37
HOTEL AND MOTEL INSPECTIONS

481—37.1(137C) Building and grounds. Owners or managers are expected to keep hotels clean. This means there shall be no litter nor accumulation of refuse anywhere on the premises.

The floors, walls, and ceilings shall be kept clean and in good repair.

37.1(1) Screens or self-closing doors shall be used to keep flies, mosquitoes and other pests out of hotel lobbies, kitchens, or any other indoor area. Other effective methods are acceptable.

37.1(2) All garbage must be kept in metal or plastic containers with tight-fitting lids. Garbage must be removed regularly so it does not create offensive odors, a problem with insects or rodents, or health or fire hazards.

37.1(3) Any room or article which becomes infested with insects or vermin shall be cleaned or chemically treated until there are no more insects or vermin.

481—37.2(137C) Guest rooms. Hotels built or extensively remodeled, as determined by the department, shall provide ventilation in guest rooms with windows or mechanical devices. The furniture, drapes and accessories shall be kept clean and in good repair.

[ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—37.3(137C) Bedding. All materials used on a bed or any sleeping place shall be kept clean and in good repair.

37.3(1) There shall be an under sheet and top sheet for every bed. Pillows shall have pillow slips. The sheets shall be large enough to completely cover the mattress.

37.3(2) Each guest shall be furnished clean sheets and pillow slips.

37.3(3) All other bedding shall be aired between guests and shall be kept clean.

481—37.4(137C) Lavatory facilities. Hotels built or remodeled shall have lavatory facilities in each guest room, except for bed and breakfast inns.

37.4(1) Each guest room shall be equipped with hot and cold running water. The fixtures must be easy to clean. The floors shall be nonabsorbent and impermeable so they can be washed with water.

37.4(2) Lavatory rooms shall be well-lighted and shall be vented to the outside of the building. This may be done with electric units.

37.4(3) Each guest shall have a clean towel each day.

37.4(4) Bed and breakfast inns shall provide at least one restroom which is available to overnight guests. The restroom must be equipped as provided in subrules 37.4(1) to 37.4(3).

[ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—37.5(137C) Glasses and ice.

37.5(1) Each guest shall have clean glasses to use. All cups, glasses or utensils usable more than once shall be sanitized by:

- a. Immersion for at least one-half minute in clean, hot water at a temperature of at least 170°F; or
- b. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F; or
- c. Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F; or
- d. Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F for one minute.

37.5(2) When hot water is used for sanitizing, the following equipment shall be used:

- a. An integral heating or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F; and
- b. A numerically scaled indicating thermometer, accurate to $\pm 3^\circ\text{F}$, convenient to the sink for frequent checks of water temperature.

37.5(3) Ice kept for guests to use shall be protected from contamination. Lids on ice machines or storage bins shall be tight. Containers used to store ice shall be continuously drained and there shall be an air gap in addition to the drain. Ice containers and utensils shall be designed so that the surfaces are made of a material that is safe for use as a food contact surface and so that the surface can be adequately cleaned.

481—37.6(137C) Employees. Rescinded ARC 6859C, IAB 2/8/23, effective 3/15/23.

481—37.7(137C) Room rates. Room rates shall be posted in accordance with Iowa Code chapter 137C.

[ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—37.8(137C) Inspections. Hotels shall be inspected in accordance with Iowa Code chapter 137C.

[ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—37.9(137C) Enforcement. Violation of these rules or any provision of Iowa Code chapter 137C is a simple misdemeanor. The department may employ various remedies if violations are discovered, including suspension or revocation of licenses (Iowa Code section 137C.10), injunction (Iowa Code section 137C.29), or referral for criminal prosecution (Iowa Code chapter 137C).

[ARC 6859C, IAB 2/8/23, effective 3/15/23]

481—37.10(137C) Criminal offense—conviction of license holder.

37.10(1) The department may suspend or revoke the license of a license holder who conducts an activity constituting a criminal offense as set forth in Iowa Code section 137C.10(3).

37.10(2) A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

This rule is intended to implement Iowa Code section 137C.10(3).

[ARC 6859C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code chapter 137C.

[Filed 10/13/78, Notice 8/23/78—published 11/1/78, effective 12/7/78]

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CHAPTERS 38 and 39

Reserved

CHAPTER 40

FOSTER CARE FACILITY INSPECTIONS

Rescinded **ARC 6802C**, IAB 1/11/23, effective 2/15/23

CHAPTER 41
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

481—41.1(135H) Definitions. The definitions set forth in Iowa Code section 135H.1 are incorporated herein. As used in this chapter:

“*Nurse practitioner*” means a registered professional nurse who is currently licensed to practice in the state, who meets state requirements and is currently licensed to practice nursing under the nursing board[655] rules in the Iowa Administrative Code.

“*Physician assistant*” means a person licensed to practice under Iowa Code chapter 148C.

[ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.2(135H) Application for license. In order to obtain an initial license for a PMIC, the applicant must comply with Iowa Code chapter 135H and the rules in this chapter. Each applicant must submit the following documents to the department:

1. A completed Psychiatric Medical Institutions for Children application;
2. A copy of a department of human services license as a comprehensive residential care facility issued pursuant to Iowa Code section 237.3(2) “a,” or a copy of a license granted by the department of public health pursuant to Iowa Code section 125.13, as a facility which provides substance abuse treatment;
3. A floor plan of each floor of the facility on 8½” by 11” paper showing:
 - Room areas in proportion;
 - Room dimensions;
 - Numbers for all rooms including bathrooms;
 - A designation of use for each room; and
 - Window and door locations;
4. A photograph of the front and side elevation of the facility;
5. The fee set forth in Iowa Code section 135H.5; and
6. Evidence of:
 - Accreditation in accordance with Iowa Code section 135H.6(1) “b”;
 - Department of public health certificate of need;
 - Approval of the department of human services in accordance with Iowa Code section 135H.6(1) “e”; and
 - Compliance with the requirements of Iowa Code section 135H.6(1) “f.”

This rule is intended to implement Iowa Code sections 135H.4, 135H.5, and 135H.6.

[ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.3(135H) Renewal application or change of ownership. In order to renew a license or change ownership of the psychiatric medical institution for children, the applicant must submit to the department:

1. A completed application form 30 days before the renewal date or before the date of the ownership change; and
2. The PMIC license fee.

41.3(1) Denial, suspension or revocation of a license. The department may deny, suspend or revoke a PMIC license for any of the reasons set forth in Iowa Code section 135H.8.

The department will issue notice of denial, suspension or revocation by certified mail or by personal service.

41.3(2) Appeal process. When a license is denied, revoked or suspended, a hearing may be requested pursuant to 481—subrule 50.5(2) and shall be conducted pursuant to rule 481—50.6(10A). During the appeal process, the status of a license shall remain as it was on the date the hearing was requested. The status shall not change until a final decision is rendered by the department.

This rule is intended to implement Iowa Code sections 135H.8 and 135H.9.

[ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.4(135H) Licenses for distinct parts. 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. The following requirements shall be met for licensing a distinct part:

41.4(1) The distinct part shall serve only children who require the category of care and services immediately available within that part.

41.4(2) The distinct part shall meet all the standards, rules and regulations which pertain to the category for which a license is sought.

41.4(3) The distinct part must be operationally and financially feasible.

41.4(4) A separate personal care staff with qualifications appropriate to the care and services offered must be regularly assigned and working in the distinct part under responsible management.

41.4(5) Separately licensed distinct parts may have some services such as management, building maintenance, laundry and dietary in common with each other.

[ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.5(135H) Waivers. Waivers from these rules may be granted by the director of the department:

1. When the need for a waiver has been established; and
2. When there is no danger to the health, safety, welfare or rights of any child.

The waiver will apply only to a specific PMIC.

Waivers shall be reviewed at the time of each licensure survey by the department to determine continuing need.

41.5(1) To request a waiver, the licensee must:

- a. Apply in writing on a form provided by the department;
- b. Cite the rule or rules from which a waiver is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain how the waiver is consistent with the individual program plans; and
- e. Demonstrate that the requested waiver will not endanger the health, safety, welfare or rights of any child.

41.5(2) Upon receipt of a request for waiver, the director shall:

- a. Examine the rule from which the waiver is requested;
- b. Evaluate the requested waiver against the requirement of the rule to determine whether the request is necessary to meet the needs of the children; and
- c. Examine the effect of the requested waiver on the health, safety or welfare of the children.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—41.6(135H) Notice to the department.

41.6(1) The department shall be notified at the times stated when the following events are expected to occur:

- a. Thirty days before addition, alteration or new construction is begun in the PMIC or on the premises;
- b. Thirty days in advance of closure of the PMIC or change in the category of license sought; and
- c. Within two weeks of any change of administrator.

41.6(2) Prior to the purchase, transfer, assignment or lease of a PMIC, the licensee shall:

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

[ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.7(135H) Inspection of complaints. The department shall conduct a preliminary review of all complaints filed against a PMIC. Unless a complaint is determined to be intended as harassment or to be without reasonable basis, the department shall inspect the PMIC within 20 working days of receipt of the complaint.

This rule is intended to implement Iowa Code section 135H.12.

481—41.8(135H) General requirement. Inpatient psychiatric services for recipients under age 21 must be provided under the direction of a physician.

When a resident has received services immediately before reaching age 21, services must be complete before the earlier of the following:

1. The date the recipient no longer requires services; or
2. The date the recipient reaches age 22.

481—41.9(135H) Certification of need for services. All recipients of services shall have written certification which ensures the following:

1. Ambulatory care resources available in the community do not meet the treatment needs of the recipient;
2. Proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician; and
3. The services can reasonably be expected to improve the recipient's condition or prevent further regression so services will no longer be needed.

Certification of need shall be completed in accordance with 42 CFR Sections 441.152 and 441.153.

[ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.10(135H) Active treatment. Inpatient psychiatric services must involve “active treatment,” which means implementation of a professionally developed and supervised individual plan of care as described in rule 481—41.12(135H). The plan of care shall be:

1. Developed and implemented no later than 14 days after admission; and
2. Designed to achieve discharge from inpatient status at the earliest possible time.

481—41.11(135H) Individual plan of care. “Individual plan of care” means a written plan developed for each child. The plan of care shall be designed to improve the condition of each child to the extent that inpatient care is no longer necessary.

41.11(1) The plan of care must be based on a diagnostic evaluation that includes examination of the:

- a. Medical,
- b. Psychological,
- c. Social,
- d. Behavioral, and
- e. Developmental aspects of the child’s situation.

The plan of care shall reflect the need for inpatient psychiatric care.

41.11(2) The plan of care shall be developed by the team of professionals specified in rule 481—41.13(135H) in consultation with the recipient, the parents, legal guardian or other person into whose care the child will be released after discharge. The plan of care shall include:

- a. Diagnoses, symptoms, complaints and complications indicating the need for admission;
- b. Treatment objectives;
- c. An integrated program of therapies, activities and experiences designed to meet the objectives;
- d. A description of the functional level of the individual;
- e. Any orders for:

- (1) Medications,
- (2) Treatments,
- (3) Restorative and rehabilitative services,
- (4) Activities,
- (5) Therapies,
- (6) Social services,
- (7) Diet, and
- (8) Special procedures recommended for the health and safety of the patient; and

f. At an appropriate time, postdischarge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient’s family, school and community upon discharge.

41.11(3) The plan of care shall be reviewed every 30 days by the team referred to in rule 481—41.13(135H) to:

- a. Determine that services being provided are or were required on an inpatient basis; and
- b. Recommend changes in the plan as indicated by the recipient’s overall adjustment as an inpatient.

This rule is intended to implement Iowa Code section 135H.3.

481—41.12(135H) Individual written plan of care. Before admission to a PMIC and before authorization for payment, the attending physician or staff physician must establish written plans for continuing care including review and modification of the plan of care.

481—41.13(135H) Plan of care team. The individual plan of care shall be developed by an interdisciplinary team of physicians and other personnel who are employed by the facility or provide services to patients.

41.13(1) Based on education and experience, the team must be capable of:

- a. Assessing the recipient’s immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities;
- b. Assessing the potential resources of the recipient’s family;
- c. Setting treatment objectives; and
- d. Prescribing therapeutic modalities to achieve the plan’s objectives.

41.13(2) The team shall include at least one member who is experienced in child psychiatry or child psychology and must include, as a minimum, either:

- a. A board-eligible or board-certified psychiatrist; or

b. A clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or

c. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnoses and treatment of mental diseases, and a psychologist who has a master's degree in clinical psychology or who has been certified by the state psychological association.

41.13(3) The team must also include one of the following:

- a. A psychiatric social worker;
- b. A registered nurse with specialized training or one year of experience in treating mentally ill individuals;
- c. A licensed occupational therapist who has specialized training in treating mentally ill individuals; or
- d. A psychologist who has a master's degree in clinical psychology or who has been certified by the state psychological association.

This rule is intended to implement Iowa Code section 135H.3.

481—41.14(135H) Required discharge. The licensee shall not refuse to discharge a child when directed by the physician, parent or legal guardian unless so directed by the court.

481—41.15(135H) Criminal behavior involving children. A person who has a record of a criminal conviction or a founded child abuse or dependent adult abuse shall not be licensed to operate, be employed by, or reside in a PMIC unless an evaluation of the crime or founded child or dependent adult abuse has been made by the department of human services which concludes that the crime or founded child or dependent adult abuse does not merit prohibition of employment.

41.15(1) A PMIC shall request that the department of human services (DHS) conduct a criminal and child abuse record check, when a person is being considered for licensure or for employment if the person will:

- a. Have direct responsibility for a child;
- b. Have access to a child when the child is alone; or
- c. Reside in the facility.

41.15(2) A PMIC shall inform all new applicants for employment of the requirement for the criminal and child abuse record checks and the possibility of a dependent adult abuse record check. The PMIC shall obtain, from the applicant, a signed acknowledgment of the receipt of this information.

41.15(3) A PMIC shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

41.15(4) DHS will inform the PMIC of the results of the criminal, child abuse, and dependent adult abuse record checks. If a record of a criminal conviction or founded child or dependent adult abuse exists, the PMIC will be informed on Form 470-2310, "Record Check Evaluation." The subject of the report shall complete that form and it shall be returned to DHS to request evaluation of the record to determine whether prohibition of the person's licensure, employment, or residence is warranted.

41.15(5) If the evaluation is not requested or if the DHS determines that the person has committed a crime or has a record of founded child abuse or dependent adult abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed to operate, be employed by, or reside in a PMIC.

This rule is intended to implement Iowa Code section 135H.7.

481—41.16(22,135H) Confidential or open information. The department maintains files for psychiatric medical institutions for children. These files are organized by facility name and contain both open and confidential information.

41.16(1) Open information includes:

- a. License application and status;
- b. Waiver requests and responses;
- c. Final findings of state license survey investigations;
- d. Records of complaints;
- e. Plans of correction submitted by the facility;
- f. Medicaid status; and
- g. Official notices of license sanctions.

41.16(2) Confidential information includes:

- a. Inspection or investigation information which does not comprise a final finding. This information may be made public in a proceeding concerning the denial, suspension or revocation of a license, under Iowa Code section 135H.8;

- b. Names and identities of all complainants; and
- c. Names of children in all facilities, identifying information and the address of anyone other than an owner.

This rule is intended to implement Iowa Code sections 22.11, 135H.11 and 135H.13.

[ARC 5719C, IAB 6/16/21, effective 7/21/21; ARC 6973C, IAB 4/5/23, effective 5/10/23]

481—41.17(135H) Additional provisions concerning physical restraint. If a PMIC uses a physical restraint, the following provisions shall apply:

41.17(1) No employee shall use any prone restraints. For the purposes of this rule, “prone restraints” means those in which an individual is held face down on the floor. Employees who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint.

41.17(2) No employee shall use any restraint that obstructs the airway of any resident.

41.17(3) If an employee physically restrains a resident who uses sign language or an augmentative mode of communication as the resident’s primary mode of communication, the resident shall be permitted to have the resident’s hands free of restraint for brief periods, unless an employee determines that such freedom appears likely to result in harm to self or others.

This rule is intended to implement Iowa Code sections 135H.4 and 135H.5.

[ARC 8857B, IAB 6/16/10, effective 7/21/10]

This chapter is intended to implement Iowa Code chapters 17A, 22 and 135H.

[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]

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[Filed ARC 6973C (Notice ARC 6813C, IAB 1/11/23), IAB 4/5/23, effective 5/10/23]

¹ Incorporated 11/28/90

CHAPTERS 42 to 48
Reserved

CHAPTER 49

AMBULATORY SURGICAL CENTERS

481—49.1(135R) Definitions.

“Ambulatory surgical center” means the same as defined by Iowa Code section 135R.1.

“Department” means the department of inspections, appeals, and licensing.

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

481—49.2(135R,10A) Application and licensing.

49.2(1) *Application and licensing.* An ambulatory surgical center shall obtain a license from the department in accordance with Iowa Code section 135R.2.

a. An ambulatory surgical center seeking licensure will make application on forms provided by the department or through the department’s online application system. Upon receipt of a completed application, including completion of the building and plan review set forth in paragraph 49.2(1) “*b.*,” and receipt of the \$50 fee set forth in Iowa Code section 135R.3(3), the application will be considered.

b. An ambulatory surgical center applicant shall submit architectural technical documents, engineering documents, and plans and specifications to the department’s building and construction division in accordance with rule 661—300.4(103A) that demonstrate the applicant’s compliance with the construction and physical environment requirements of subrule 49.4(2). The submission may be completed by an authorized agent of the applicant or the responsible design professional, who shall certify that the building or building plans meet the construction and physical environment standards within subrule 49.4(2) or that a waiver has been granted by the department for any noncompliant standard. If the applicant was operating prior to and continuously since July 1, 2023, the applicant is permitted up to six months after submission of its license application to submit plans demonstrating compliance with subrule 49.4(1) or obtaining waivers for the construction and physical environment standards in accordance with subrule 49.4(2).

49.2(2) *Certificate of need.* An ambulatory surgical center will be granted an initial license and is not required to obtain a new certificate of need solely because licensure is mandated by Iowa Code chapter 135R if the ambulatory surgical center was operating prior to and continuously since July 1, 2023. If an ambulatory surgical center beginning or modifying its operations on or after July 1, 2023, would be required to obtain a certificate of need from the health facilities council pursuant to Iowa Code chapter 10A, subchapter VII, part 2, it shall obtain a certificate of need from the health facilities council prior to submitting its license application to the department.

49.2(3) *Renewal, changes of ownership, and changes of information.* A license issued pursuant to this chapter expires one year after the date of issuance or as indicated on the license.

a. Renewal. To renew a license, a completed application form shall be submitted to the department 30 days prior to license expiration.

b. Change of ownership. To request a change of ownership, a completed application form shall be submitted to the department for the new owner at least 30 days prior to the proposed effective date of the change of ownership. A change of ownership includes the purchase, transfer, assignment, or lease of the licensed ambulatory surgical center and includes a change in the management company responsible for the day-to-day operation of the ambulatory surgical center if the management company is ultimately responsible for any enforcement action taken by the department. For purposes of determining ownership and whether such changes constitute a change of ownership, the department adopts the Centers for Medicare and Medicaid Services (CMS) State Operations Manual sections 3210.1A and 3210.1D (Rev. 1, 05-21-04).

c. Change of information. The department should be notified of any changes to an applicant’s or licensee’s application information within 30 days of the date the change occurs, including the cessation of operation.

49.2(4) *Public display.* The license shall be displayed in a conspicuous place in the ambulatory surgical center viewed by the public.

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

481—49.3(135R,10A) Inspections.

49.3(1) *Frequency.* Inspections may be initiated because of a complaint or other information received by the department or upon referral from other agencies. The department will perform inspections at the same frequency and utilize any priority tier structure for survey and certification activities required for inspections of Medicare-certified ambulatory surgical centers. The department will recognize, in lieu of its own licensure inspection, the comparable inspection and findings of a Medicare survey or an accrediting organization survey from an accrediting organization approved by CMS for federal certification. An ambulatory surgical center utilizing an accrediting organization survey

to satisfy the requirements of this subrule shall submit an accreditation certificate to the department within 30 days of completion of each accrediting organization survey.

49.3(2) *Access to records.* An inspector with the department may enter an ambulatory surgical center without a warrant and may examine and copy all records and items pertaining to the inspection unless the record or item is protected by some other legal privilege.

49.3(3) *Evaluation of allegations and referral to other agencies.* If an inspection is initiated, the department will evaluate the allegations to determine whether the allegations should also be referred to other local, state, or federal agencies. If the department believes a criminal or regulatory violation has occurred or is occurring, the department shall notify the appropriate law enforcement or regulatory agencies.

49.3(4) *Final findings.* The department will notify the ambulatory surgical center and any complainant, in writing, of the final findings of an inspection.

49.3(5) *Inspector conflict of interest.* An employee of the department will be excluded from participating in the inspection of an ambulatory surgical facility described by Iowa Code section 135R.5(3).

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

481—49.4(135R) General licensing standards.

49.4(1) *Federal specific conditions of coverage.* A state-licensed ambulatory surgical center shall comply with the specific conditions for coverage in the federal Medicare program for ambulatory surgical centers under 42 CFR Part 416, Subpart C, as amended to July 1, 2023, and federal interpretive guidelines for such regulations, including Appendix L of the State Operations Manual published by CMS, Rev. 215, as amended to July 21, 2023, or an accreditation standard of The Joint Commission, the American Association for Accreditation of Ambulatory Surgical Facilities, the Accreditation Association for Ambulatory Health Care, or an accrediting organization approved by CMS for federal certification if the state-licensed ambulatory surgical center is inspected by an accrediting organization pursuant to subrule 49.3(1).

49.4(2) *Construction and physical environment standards.* In accordance with subrule 49.4(1), the construction and physical environment standards of 42 CFR 416.44 as amended to July 1, 2023, are adopted. Ambulatory surgical centers built in compliance with construction and environment standards applicable at the time of building approval or building plan approval under subrule 49.2(1) are deemed in compliance with subsequent regulations, with the exception of any structural renovations, additions, functional alterations, or changes in space utilization after the date of approval. Any such structural renovations, additions, functional alterations, or changes in space utilization that will occur after the licensee's initial approval shall be reviewed and approved in accordance with paragraph 49.2(3) "b" prior to such changes being made.

49.4(3) *External reporting.* An ambulatory surgical center shall report quality data to the Iowa department of health and human services consistent with the data required to be reported to CMS in accordance with rules promulgated by the Iowa department of health and human services.

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

481—49.5(135R) Enforcement and penalties.

49.5(1) *Denial, suspension, or revocation.* The license for an ambulatory surgical center may be denied, suspended, or revoked for failure to comply with Iowa Code chapter 135R or this chapter, including any reason for which an ambulatory surgical center could be denied, suspended, or terminated from the federal Medicare program for ambulatory surgical centers under 42 CFR Part 416 as amended to July 1, 2023, and federal interpretive guidelines, including Appendix L of the State Operations Manual published by CMS, Rev. 215, as amended to July 21, 2023.

49.5(2) *Effective date and contested case appeals.* Unless otherwise stated, a denial, suspension or revocation of license is effective 30 days after certified mailing or personal service of the notice upon the licensee. The licensee may request a contested case hearing by submitting a request, in writing, to the department within 30 days of the mailing or service. Contested case appeals and hearings are governed by 481—Chapter 9, 481—Chapter 10, and 481—Chapter 16.

49.5(3) *Enjoining an unlicensed ambulatory surgical center.* An injunction or other process against any person to restrain or prevent the establishment, operation, or maintenance of an ambulatory surgical center without a license may be pursued by the department in accordance with Iowa Code section 135R.7.

49.5(4) *Operation of unlicensed ambulatory surgical center—serious misdemeanor.* A person establishing, operating, or maintaining an ambulatory surgical center without a license commits a serious misdemeanor as set forth in Iowa Code section 135R.9.

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

481—49.6(135R,10A) Public and confidential information. The department's final findings with respect to compliance by an ambulatory surgical center with requirements for licensing will be made available to the public on the department's website. Other information relating to an ambulatory surgical center obtained by the department that does not constitute the department's final findings from an inspection, including the name and identifying information about a complainant, are confidential in accordance with Iowa Code section 135R.6. This rule does not inhibit the referral of otherwise confidential information to other law enforcement or regulatory agencies pursuant to Iowa Code section 10A.105(5).

49.6(1) Public disclosure. The following records are open and available for inspection:

- a. License application forms and accompanying materials;
- b. Final findings of the department's inspections;
- c. Official notices of any enforcement action.

49.6(2) Confidential information. Confidential information includes the following:

a. Information obtained by the department that does not comprise a final finding resulting from an inspection. Inspection information that does not comprise a final finding may be made public in a contested case proceeding concerning the department's final findings, including the denial or revocation of registration.

- b. Names and identifying information of all complainants.

49.6(3) Redaction of confidential information. If a record normally open for inspection contains confidential information, the confidential information will be redacted prior to providing the record for inspection.

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

481—49.7(135R,10A) Waivers. Requests for waiver may be submitted to the department in accordance with 481—Chapter 6. Waivers may be granted by the director of the department when, in the director's discretion, good and sufficient reasons underlying the need for a waiver have been established; no substantial risk to the health, safety, or welfare of patients is presented by approving the waiver; and alternate means are employed or compensating circumstances exist to justify the waiver. Any waiver granted is limited to the specific project under consideration and does not establish a precedent for similar acceptance in other cases.

[ARC 7886C, IAB 5/1/24, effective 6/5/24]

These rules are intended to implement Iowa Code chapters 135R and 10A.

[Filed ARC 7886C (Notice ARC 7650C, IAB 2/21/24), IAB 5/1/24, effective 6/5/24]

CHAPTER 50
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, three- to five-bed license, 481—Chapter 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; ARC 7035C, IAB 5/31/23, effective 7/5/23]

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 9, “Contested Cases,” and 481—Chapter 10, “Rules of Procedure and Practice Before the Administrative Hearings Division.”

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

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

1. Be made in writing,
2. Be mailed by certified mail to the director, within 15 days after the proposed decision was mailed to the aggrieved party,

3. State the reason(s) for the request.

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

50.6(3) 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.

[ARC 3523C, IAB 12/20/17, effective 1/24/18; ARC 7035C, IAB 5/31/23, effective 7/5/23]

481—50.7(10A,135C) Additional notification. A health care facility shall notify the department 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, including physical impairments affecting operations (e.g., failure of a heating or cooling system, water heater failure).

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 235E, which requires reporting of dependent adult abuse.

[ARC 7035C, IAB 5/31/23, effective 7/5/23]

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

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

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

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

- a.* Information that does not comprise a final report resulting from a survey, investigation, or entity-reported incident investigation, except as set forth in Iowa Code section 135B.12 or 135C.19(1);

- b. Names of complainants;
- c. Names of patients or residents and any identifying medical information;
- d. The address of anyone other than an owner.

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

[ARC 7035C, IAB 5/31/23, effective 7/5/23]

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.

“Comprehensive preliminary background check” means a criminal history check of all states in which the applicant has worked or resided over the seven-year period immediately prior to submitting an application for employment or participation in a certified nurse aide training program that is conducted by an approved third-party vendor.

“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;
4. A health care employment agency worker as defined by Iowa Code section 135Q.1.

“Employee” means any individual who is paid either by the facility or any other entity (i.e., health care employment 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 complete the background check requirements set forth below.

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 shall either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record

checks of the person in this state, or access the single contact repository (SING) to perform the required background check. If the SING is used, the facility shall submit the person's prior name(s), if applicable, with the background check request. (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 facility shall request that the department of human services 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 person being considered for employment in a facility has a record of founded child or dependent adult abuse under a law of any state, the facility shall request that the department of human services 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 provisionally employ a person prior to completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:

(1) The facility shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;

(2) If applicable, the facility shall request an evaluation by the department of human services in accordance with paragraph 50.9(3) "c" or "d" within 30 days of receipt of the SING record check results;

(3) The facility shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;

(4) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;

(5) The comprehensive preliminary background check shall have determined that the person being considered for employment does not have a record of founded child abuse or dependent adult abuse, or, if the person being considered for employment does have a record of founded child abuse or dependent adult abuse, subrule 50.9(8) is applicable; and

(6) The provisional employment may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed. (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. Except as provided in paragraph 50.9(3) "e," 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 seven calendar days 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 website, 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 seven calendar days 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 website, 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 health care employment agencies and contractors.* Proof of background checks may be kept in the files maintained by health care employment agencies and contractors. Health care employment agencies and contractors shall provide a copy of the result of the background checks to the facility or 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 either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the SING to perform the required background check.

a. *Prohibition of involvement in clinical education.* Except as provided in paragraph 50.9(1) "b," 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 provisionally allow the student's participation in the clinical education component of the certified nurse aide training program pending completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:

(1) The training program shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;

(2) If applicable, the training program shall request an evaluation by the department of human services in accordance with paragraph 50.9(12) "a" within 30 days of receipt of the SING record check results;

(3) The training program shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;

(4) If the comprehensive preliminary background check determines that the student being considered for participation has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;

(5) The comprehensive preliminary background check shall have determined that the student does not have a record of founded child abuse or dependent adult abuse, or, if the student does have a record of founded child abuse or dependent adult abuse, subrule 50.9(8) is applicable; and

(6) The provisional participation may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed.

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 seven calendar days 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 website, 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 seven calendar days 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 website, 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 sections 135C.14 and 135C.33.

[ARC 0903C, IAB 8/7/13, effective 9/11/13; ARC 1566C, IAB 8/6/14, effective 9/10/14; ARC 5421C, IAB 2/10/21, effective 3/17/21; ARC 7035C, IAB 5/31/23, effective 7/5/23]

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 email, 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 calendar 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; ARC 1566C, IAB 8/6/14, effective 9/10/14]

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 website address dia-hfd.iowa.gov.

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, dia-hfd.iowa.gov, 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; ARC 7035C, IAB 5/31/23, effective 7/5/23]

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.

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CHAPTER 51 HOSPITALS

[Prior to 12/14/88, see Health Department[470] Ch 51]

[Prior to 8/8/90, see Public Health[641] Ch 51]

481—51.1(135B) Definitions. As used in this chapter, unless the context otherwise requires, the following definitions apply:

“Critical access hospital” means any hospital located in a rural area and certified by the Iowa department of health and human services as being a necessary provider of health care services to residents of the area. A “critical access hospital” makes available 24-hour emergency care, is a designated provider in a rural health network, and meets the criteria specified pursuant to rule 481—51.27(135B).

“Governing board” means the board of trustees, the owner, or person(s) designated by the owner as the governing authority. The governing board has supreme authority in the hospital and is responsible for the management, control, and appointment of the medical staff.

“Hospital” or *“general hospital”* means an institution, place, building, or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the diagnosis or treatment, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury, infirmity or deformity, or other physical or mental condition for which medical, surgical and obstetrical care services are provided.

“Long-term acute care hospital” means any hospital that has an average inpatient length of stay greater than 25 days and that provides extended medical and rehabilitative care for patients who are clinically complex and who may suffer from multiple acute or chronic conditions. Services provided by a long-term acute care hospital include but are not limited to comprehensive rehabilitation, respiratory therapy, head trauma treatment, and pain management.

“Medical staff” means an organized body that is composed of individuals appointed by the hospital governing board, that operates under bylaws approved by the governing board and that is responsible for the quality of medical care provided to patients by the hospital. All members of the medical staff, one of whom shall be a licensed physician, shall be licensed to practice in the state of Iowa.

“Premises” means any or all designated portions of a building or structure, enclosures or places in the building, or real estate when the distinct and clearly identifiable parts provide separate care and services. “Premises” is not to be construed to permit the existence of a separately licensed specialty hospital within the physical structure of a general hospital.

“Rural emergency hospital” means the same as defined by Iowa Code section 135B.1.

“Specialized hospital” means any hospital devoted primarily to the specialized care and treatment of persons with chronic or long-term illness, injury, or infirmity. “Specialized hospital” does not include a specialty hospital.

“Specialty hospital” means the same as defined by 42 CFR Section 411.351 as amended to November 7, 2023.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.2(135B) Classification, compliance and license.

51.2(1) All hospitals subject to licensure under this chapter will be classified as a critical access hospital, general hospital, long-term acute care hospital, rural emergency hospital, or specialized hospital. The license issued by the department will clearly identify the classification of the hospital, and such designation will be set forth on the hospital’s license.

51.2(2) A hospital shall comply with all of the general regulations for hospitals and any rules pertaining to specialized services, if specialized services are provided in the hospital.

51.2(3) A separate license is required for each hospital even though more than one is operated under the same management. A separate license is not required for separate buildings of a hospital located on separate parcels of land, which are not adjoining but provide elements of the hospital’s full range of services for the diagnosis, care, and treatment of human illness, including convalescence and rehabilitation, and which are organized under a single owner or governing board with a single designated administrator and medical staff.

51.2(4) The license shall be conspicuously posted on the main premises of the hospital.

51.2(5) The department shall recognize, in lieu of its own licensure inspection, the comparable inspections and findings of an accrediting organization approved by the Centers for Medicare and Medicaid Services (CMS) for federal certification if the department is provided with copies of all requested materials relating to the inspection process. In cases of the initial licensure, the department may require its own inspection when needed in addition to comparable accreditations to allow the hospital to begin operations. The department may also initiate its own inspection when it is determined that the inspection findings of the accrediting organization are insufficient to address concerns identified as possible licensure issues.

51.2(6) The department may recognize, in lieu of its own licensure inspection, the comparable inspection and inspection findings of a Medicare conditions of participation survey of a hospital certified by CMS. Hospitals that are not federally certified will be inspected utilizing the requirements of this chapter.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.3(135B) Quality improvement program.

51.3(1) There shall be an ongoing hospitalwide quality improvement program. This program is to be designed to improve, as needed, the quality of patient care by:

- a. Assessing clinical patient care;
- b. Assessing nonclinical and patient-related services within the hospital;
- c. Developing remedial action as needed; and
- d. Ongoing monitoring and evaluating of the progress of remedial action taken.

51.3(2) The governing body shall ensure there is an effective hospitalwide patient-oriented quality improvement program.

51.3(3) The quality improvement program shall involve active participation of physician members of the hospital's medical staff and other health care professionals, as appropriate. Evidence of this participation will include ongoing case review and assessment of other patient care problems, which have been identified through the quality improvement process.

51.3(4) The quality improvement plan may include external, state, local, federal, and regional benchmarking activities designed to improve the quality of patient care. The quality improvement plan shall be written and may address the following:

- a. The program's objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and problem-solving activities;
- b. The participation from all departments, services (including services provided both directly and under contract), and disciplines;
- c. An assessment of participation through a quality improvement committee meeting on an established periodic basis;
- d. The coordination of quality improvement activities;
- e. The communication, reporting and documentation of all quality improvement activities on a regular basis to the governing board, the medical staff, and the hospital administrator;
- f. An annual evaluation by the governing board of the effectiveness of the quality improvement program; and
- g. The accessibility and confidentiality of materials relating to, generated by or part of the quality improvement process.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.4(135B) Long-term acute care hospital located within a general hospital.

51.4(1) A long-term acute care hospital shall meet the requirements for a general hospital, including emergency services, except that obstetrical facilities are not required, and, if the long-term acute care hospital is located within a separately licensed hospital and does not provide its own emergency services, the long-term acute care hospital shall contract for emergency services with the host general hospital.

51.4(2) If a long-term acute care hospital occupies the same premises of a general hospital, all treatment facilities and administrative offices for each hospital shall be clearly marked and separated from each other and located within the licensed premises of each licensee. Treatment facilities shall be sufficient to meet the medical needs of the patients. Administrative offices include, but are not limited to, record rooms and personnel offices. Nothing prohibits a long-term acute care hospital that is occupying the same premises as a general hospital from utilizing the entrance, hallway, stairs, elevators or escalators of the general hospital to provide access to the long-term acute care hospital's separate entrance, but there should be clearly identifiable and distinguishable signs for each hospital.

51.4(3) A long-term acute care hospital located within a general hospital shall have sufficient staff to meet the patients' needs. No nursing services staff can be simultaneously assigned patient duties in both licensed hospitals.

51.4(4) Each long-term acute care hospital located within a general hospital and the general hospital shall have a separate and distinct governing board in control of the respective hospital. No more than one board member shall serve in a common capacity on the governing board of each licensed hospital. For the purposes of this rule, control exists if an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

51.4(5) A long-term acute care hospital located within a general hospital may contract with the host general hospital for the provision of services. All contracts shall clearly delineate the responsibilities of and services provided by the long-term acute care hospital and the general hospital and be executed by the respective governing boards.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.5(135B) Medical staff.

51.5(1) A roster of medical staff members shall be kept.

51.5(2) All hospitals shall have one or more licensed physicians designated for emergency call service at all times.

51.5(3) A hospital shall not deny clinical privileges as set forth in Iowa Code section 135B.7(2).

51.5(4) A hospital shall establish and implement written criteria for the granting of clinical privileges that include but are not limited to consideration of the:

- a. Ability of the applicant to provide patient care services independently or appropriately in the hospital;
- b. License held by the applicant to practice;
- c. Training, experience, and competence of the applicant;
- d. Relationship between the applicant's request for privileges and the hospital's current scope of patient care services;
- e. Applicant's ability to provide comprehensive, appropriate and cost-effective services.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.6(135B) Patient rights and responsibilities. The hospital governing board shall adopt a statement of principles relating to patient rights and responsibilities that is made available to patients of the hospital and addresses, at a minimum:

51.6(1) Access to treatment regardless of age, race, creed, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, sexual orientation, gender identity or expression, diagnosis, or source of payment for care;

51.6(2) Preservation of individual dignity and protection of personal privacy in receipt of care;

51.6(3) Confidentiality of medical and other appropriate information;

51.6(4) Assurance of reasonable safety within the hospital;

51.6(5) Knowledge of the identity of the physician or other practitioner primarily responsible for the patient's care as well as identity and professional status of others providing services to the patient while in the hospital;

51.6(6) Nature of patient's right to information regarding the patient's medical condition unless medically contraindicated, to consult with a specialist at the patient's request and expense, and to refuse treatment to the extent authorized by law;

51.6(7) Access to and explanation of patient billings;

51.6(8) Process for patient pursuit of grievances; and

51.6(9) Patient responsibilities, including to provide accurate and complete information regarding the patient's health status; to follow recommended treatment plans; to abide by hospital rules and regulations affecting patient care and conduct and be considerate of the rights of other patients and hospital personnel; and to fulfill the patient's financial obligations as soon as possible following discharge.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.7(135B) Abuse.

51.7(1) Definitions.

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, pain or mental anguish. Neglect is a form of abuse and is defined as the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

"Child abuse" means the same as defined in Iowa Code section 232.68.

"Dependent adult abuse" means the same as defined in Iowa Code section 235E.1 and 481—Chapter 52.

"Domestic abuse" means the same as defined in Iowa Code section 236.2.

"Elder abuse" means the same as defined in Iowa Code section 235F.1.

"Family or household members" means the same as defined in Iowa Code section 236.2.

51.7(2) Abuse prohibited. Each patient shall receive kind and considerate care at all times and shall be free from all forms of abuse or harassment.

a. Restraints shall be applied only when they are necessary to prevent injury to the patient or to others and shall be used only when alternative measures are not sufficient to accomplish their purposes.

b. There must be a written order signed by the attending physician approving the use of restraints either at the time they are applied or as soon thereafter as possible.

c. Careful consideration shall be given to the methods by which the restraints can be speedily removed in case of fire or other emergency.

51.7(3) *Hospital response to elder abuse.*

a. Each hospital shall establish and implement policies and procedures with respect to victims of elder abuse that, at a minimum, provide for:

- (1) An interview with the victim in a place that ensures privacy;
- (2) Confidentiality of the person's treatment and information; and
- (3) Education of appropriate emergency department staff to assist in the identification of victims of elder abuse.

b. The treatment records of victims of elder abuse shall include:

(1) An assessment of the extent of abuse to the victim specifically describing the location and extent of the injury and reported pain;

(2) A record of the treatment and intervention by health care provider personnel;

(3) A record of the need for follow-up care and specification of the follow-up care to be given (e.g., X-rays, surgery, consultation, similar care); and

(4) The victim's statement of how the injury occurred.

51.7(4) *Hospital response to domestic abuse.* Each hospital shall establish and implement policies and procedures with respect to victims of domestic abuse that, at a minimum, meet the requirements of paragraph 51.7(3) "a," and also provide for sharing information regarding the domestic abuse hotline and programs. The treatment records of victims of domestic abuse shall meet the requirements of paragraph 51.7(3) "b" and also include evidence that the victim was informed of the telephone numbers for the domestic abuse hotline and domestic abuse programs and the victim's response.

51.7(5) *Mandatory reporting of child abuse and dependent adult abuse.* Each hospital shall establish and implement policies and procedures with respect to the mandatory reporting of abuse pursuant to the Iowa Code. The treatment records of victims of child abuse or dependent adult abuse shall indicate that the department of health and human services' protective services was contacted.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.8(135B) Organ, tissue and eye procurement. Each hospital shall have written policies and protocols for organ, tissue and eye donation consistent with Iowa Code chapter 142C and 42 CFR 482.45 as amended to November 7, 2023, or 42 CFR 485.643 as amended to November 7, 2023.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.9(135B) Nursing services.

51.9(1) The hospital shall have an organized nursing service that provides complete and efficient nursing care to each patient. The authority, responsibility and function of each nurse shall be clearly defined.

51.9(2) Registered nurses shall utilize the nursing process in the practice of nursing, consistent with accepted and prevailing practice. The nursing process is ongoing and includes:

a. Nursing assessments about the health status of an individual or group.

b. Formulation of a nursing diagnosis based on analysis of the data from the nursing assessment.

c. Planning of nursing care, which includes determining goals and priorities for actions that are based on the nursing diagnosis.

d. Nursing interventions implementing the plan of care.

e. Evaluation of the individual's or group's status in relation to established goals and the plan of care.

51.9(3) A licensed practical nurse(s) may participate in the nursing process as described in subrule 51.9(2) consistent with accepted practice by assisting the registered nurse or physician.

51.9(4) All nurses employed in a hospital who practice nursing as a registered nurse or licensed practical nurse shall hold an active Iowa license or hold an active license in another state and be recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1.

51.9(5) There shall be a director of nursing service with administrative and executive competency who holds an active Iowa license or holds an active license in another state and is recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1.

51.9(6) Nursing management shall have had preparation courses and experience in accordance with hospital policy commensurate with the responsibility of the specific assignment.

51.9(7) All unlicensed personnel performing patient-care service shall be under the supervision of a registered nurse, have duties defined in writing by the hospital, and be instructed in all duties assigned to them.

51.9(8) The nursing service shall have adequate numbers of licensed registered nurses, licensed practical nurses, and other personnel to provide nursing care essential for the proper treatment, well-being, and recovery of the patient.

51.9(9) Written policies and procedures shall be established for the administrative and technical guidance of the personnel in the hospital. Each employee shall be familiar with these policies and procedures.

51.9(10) Each hospital shall have a minimum of one registered nurse on duty at all times.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.10(135B) Records and reports.

51.10(1) *Medical records.* Accurate and complete medical records shall be maintained for all patients and signed by the appropriate provider. These records shall be filed and stored in an accessible manner and in accordance with the statute of limitations as specified in Iowa Code chapter 614.

51.10(2) *Hospital records.* A hospital shall maintain the following records:

a. Admission records. A register of all admissions to the hospital.

b. Death records. A record of all deaths in the hospital, including all information on a standard death certificate as specified in Iowa Code chapter 144.

c. Birth records. A record of all births in the hospital, including all information on a standard birth certificate as specified in Iowa Code chapter 144.

d. Controlled substance records. Controlled substance records in accordance with state and federal laws, rules and regulations.

51.10(3) *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the patients of the hospital.

a. If access to an electronic record is requested by the authorized representative of the department, the hospital may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion.

b. The hospital shall provide a terminal where the authorized representative may access records.

c. If the hospital is unable to provide direct print capability to the authorized representative, the hospital shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.11(135B) Pharmaceutical service.

51.11(1) *General requirements.* Hospital pharmaceutical services shall be licensed in accordance with Iowa board of pharmacy rules.

51.11(2) *Medication administration.* All drugs and biologicals must be administered by, or under the supervision of, nursing or other trained personnel in accordance with hospital policies and procedures. The person assigned the responsibility of medication administration must complete the entire procedure by personally preparing the dose from a multiple-dose container or using a prepackaged unit dose, personally administering it to the patient, and observing the act of the medication being taken.

51.11(3) *Standing orders.* Standing orders for drugs may be used for specified patients when authorized by the prescribing practitioner. These standing orders shall be in accordance with policies and procedures established by the appropriate committee within each hospital. At a minimum, the standing orders shall:

a. Specify the clinical situations under which the drug is to be administered;

b. Specify the types of medical conditions of the patients for whom the standing orders are intended;

c. Be reviewed and revised by the hospital's pharmacy and therapeutics or similar committee on a regular basis as specified by hospital policies and procedures;

d. Be specific as to the drug, dosage, route, and frequency of administration; and

e. Be dated, authorized by signature or other secure electronic method by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge, and included in the patient's medical record.

51.11(4) *Self-administration of medications.* Patients shall only be permitted to self-administer medications when specifically ordered by the prescribing practitioner and the prescribing practitioner has determined this practice is safe for the specific patient. The hospital shall develop policies and procedures regarding storage and documentation of the administration of drugs.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.12(135B) Verbal orders. All verbal orders must be authenticated by the prescribing or ordering practitioner within a period not to exceed 30 days following a patient's discharge. When verbal or electronic mechanisms are used to transmit orders, the orders must be accepted only by personnel who are authorized to do so by hospital policies and procedures in a manner consistent with federal and state law.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.13(135B) Radiological services.

51.13(1) The hospital must maintain, or have available, radiological services to meet the needs of the patients.

51.13(2) All radiological services shall be furnished in compliance with any applicable state law or state rules, including 641—Chapters 38 through 42.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.14(135B) Laboratory service.

51.14(1) The hospital must maintain, or have available, adequate laboratory and pathology services and facilities to meet the needs of its patients. The medical staff determine which laboratory tests are necessary to be performed on site to meet the needs of the patients.

51.14(2) Emergency laboratory services must be available 24 hours a day.

51.14(3) Laboratory services must be performed in a laboratory certified and operating in accordance with 42 CFR Part 493 as amended to November 7, 2023.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.15(135B) Food and nutrition service.

51.15(1) *Food and nutrition service definitions.* “Food service” means providing safe, satisfying, and nutritionally adequate food for patients through the provision of appropriate staff, space, equipment, and supplies. “Nutrition service” means providing assessment and education to ensure that the nutritional needs of the patients are met.

51.15(2) *General requirements.*

a. All food will be handled, prepared, served, and stored in accordance with the Food Code adopted under provisions of Iowa Code section 137F.2.

b. The food and dietetic services shall be of a quality and quantity to meet the patient's needs in accordance with any qualified health practitioner's orders and meet the standards set forth in 42 CFR 482.28 as amended to November 7, 2023. Patient food preferences should be respected as much as possible, and substitutes offered through use of appropriate food groups.

c. Policies and procedures shall be developed and maintained.

d. Not less than three meals will be served daily unless contraindicated, and not more than 14 hours will elapse between the evening meal and breakfast of the following day. Nourishment between meals will be available to all patients unless contraindicated by the qualified health care practitioner.

e. The hospital will maintain adequate space, equipment, and staple food supplies to provide patient food service in emergencies.

f. Menus for regular and therapeutic diets will be available and standardized recipes with nutritional analysis adjusted to number of portions will be maintained and used in food preparation.

g. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance. Food shall be served attractively at appropriate and safe temperatures and in a form to meet individual needs.

h. Nutrition screening will be conducted by qualified hospital staff to determine the patient's need for a comprehensive nutrition assessment by the licensed dietitian. Nutritional care will be integrated in the patient care plan, as appropriate, based upon the patient's diagnosis and length of stay. The licensed dietitian will record in the patient's medical record any observations and information pertinent to medical nutrition therapy, and any pertinent dietary records will be included in the patient's transfer discharge record to ensure continuity of nutritional care. Upon discharge, nutrition counseling and education will be provided to the patient and family as ordered by the qualified health care practitioner, requested by the patient or deemed appropriate by the licensed dietitian.

i. In-service training, in accordance with hospital policies, will be provided for all food and nutrition service personnel.

j. On the nursing units, a separate patient food storage area will be maintained that ensures proper temperature control.

51.15(3) *Food and nutrition service staff.*

a. A licensed dietitian will be employed on a full-time, part-time or consulting basis, with any part-time or consultant services provided on the premises at appropriate times on a regularly scheduled basis. These services shall be of sufficient duration and frequency to provide continuing liaison with medical and nursing staff, advice to the administrator, patient counseling, guidance to the supervisor and staff of the food and nutrition service, approval of all menus, and participation in the development or revision of departmental policies and procedures and in planning and conducting in-service education programs.

b. If a licensed dietitian is not employed full-time, then one must be employed on a part-time or consultation basis with an additional full-time person who has completed a certified dietary manager course and is employed to be responsible for the operation of the food service.

c. Sufficient food service personnel will be employed, oriented, trained, and their working hours scheduled to provide for the nutritional needs of the patients and to maintain the food service areas.

51.15(4) Food service equipment and supplies. Equipment necessary for preparation and maintenance of menus, records, and references will be provided. At least one week's supply of staple foods and a reasonable supply of perishable foods shall be maintained on the premises. Supplies will be appropriate to meet the requirements of the menu.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.16(135B) Equipment for patient care. Hospital equipment shall be selected, maintained and utilized in accordance with the manufacturer's specifications and the needs of the patients.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.17(135B) Infection control. There shall be proper policies and procedures for the prevention and control of communicable diseases, including compliance with the current rules for the control of communicable disease as provided by the Iowa department of health and human services and current Centers for Disease Control and Prevention (CDC) guidelines for isolation precautions.

51.17(1) Segregation. There shall be proper arrangement of areas, rooms and patients' beds to provide for the prevention of cross-infections and the control of communicable diseases. There shall also be proper cleansing of rooms and surgeries immediately following the care of a communicable case and utilization of proper isolation techniques for patients and staff to prevent cross-infection.

51.17(2) Visitors. The hospital shall establish proper policies and procedures for the control of visitors to all services in the hospital.

51.17(3) Health assessments. Health assessments for all contracted or employed personnel who provide direct services shall be required at the commencement of employment and thereafter at least every four years.

a. "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 the hospital for a very limited purpose, who are not in the hospital on a regular basis, and who do not provide any treatment or services for the patients of the hospital.

b. The health assessment may be performed by the person's primary care provider.

c. The health assessment shall include, at a minimum, vital signs and an assessment for infectious or communicable diseases.

d. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59.

51.17(4) Notification. Prior to 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.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.18(135B) Surgical services. All hospitals providing surgical services shall be properly organized and equipped to provide for the safe and aseptic treatment of surgical patients.

51.18(1) Written policies and procedures governing surgical services shall be developed and implemented in consultation with the hospital's medical staff and, at a minimum, provide for:

a. Surgical services under the direction of a qualified doctor of medicine or osteopathy.

b. Delineation of the privileges and qualifications of individuals authorized to provide surgical services as set forth in the hospital's medical staff bylaws and in accordance with subrule 51.5(4), including a periodic review and update of surgical privileges not to exceed every three years or other term permitted by an accrediting organization approved by CMS for federal certification, whichever is longer. The surgical service must maintain a roster of these individuals specifying the surgical privileges of each.

c. Immediate availability of at least one registered nurse for the operating room suites to respond to emergencies.

d. The qualifications and job descriptions of nursing personnel, surgical technicians, and other support personnel and continuing education required.

e. Appropriate staffing for surgical services, including physician and anesthesia coverage and other support personnel.

f. Availability of ancillary services for surgical patients, including but not limited to blood banking, laboratory, radiology, and anesthesia.

g. Infection control and disease prevention, including aseptic surveillance and practice, identification of infected and noninfected cases, sterilization and disinfection procedures, and ongoing monitoring of infections and infection rates.

h. Housekeeping requirements.

i. Safety practices.

j. Ongoing quality assessment, performance improvement, and process improvement.

k. The pathological examination of tissue specimens either directly or through contractual arrangements.

l. Appropriate preoperative teaching and discharge planning.

51.18(2) Policies and procedures may be adjusted as appropriate to reflect the provision of surgical services in inpatient, outpatient or one-day surgical settings.

51.18(3) There must be an appropriate history and physical workup documented and a properly executed consent form in the chart of each patient prior to surgery, except in the event of an emergency.

51.18(4) A full operative report must be written or dictated within 24 hours following surgery and signed by the individual conducting the surgery.

51.18(5) Equipment available in the operating room, recovery room, outpatient surgical areas, and for postsurgical care must be consistent with the needs of the patient.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.19(135B) Anesthesia services.

51.19(1) There shall be written policies and procedures governing anesthesia services that are consistent with the needs and resources of the hospital. Written policies and procedures governing anesthesia services shall be developed and implemented in consultation with and with the approval of the hospital's medical staff and, at a minimum, provide for:

a. Anesthesia services under the direction of a qualified doctor of medicine or osteopathy.

b. The qualifications of individuals authorized to administer anesthesia as set out in the hospital's medical staff bylaws or medical staff rules and regulations.

c. Preanesthesia evaluation, appraisal of a patient's current condition, preparation of an intraoperative anesthesia record, and discharge criteria for patients.

d. Equipment functioning and safety, including ensuring that a qualified medical doctor, osteopathic physician and surgeon or anesthetist checks, prior to the administration of anesthesia, the readiness, availability, cleanliness, and working condition of all equipment to be used in the administration of anesthetic agents and minimizing electrical hazard in anesthesia areas.

e. Quality assurance, including infection control procedures; integration of anesthesia services into various areas of the hospital; and ongoing monitoring, review, and evaluation of anesthesia services, processes, and procedures.

51.19(2) Policies and procedures may be adjusted as appropriate to reflect provision of anesthesia services in inpatient or outpatient settings.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.20(135B) Emergency services.

51.20(1) All hospitals shall provide for emergency services that offers reasonable care within the medical capabilities of the facility in determining whether an emergency exists, renders care appropriate to the facility and, at a minimum, renders lifesaving first aid and makes appropriate referral to a facility that is capable of providing needed services.

51.20(2) The hospital shall have written policies and procedures specifying the scope and conduct of patient care to be provided in the emergency service. The policies shall:

a. Provide for training of all personnel providing patient care in the emergency service.

b. Require that a medical record be kept on every patient given treatment in the emergency service and establish the medical record documentation. The documentation should include, at a minimum, appropriate information

regarding the medical screening provided, except where the person refuses, then notation of patient refusal; physician documentation of the presence or absence of an emergency medical condition or active labor; physician documentation of transfer or discharge, stating the basis for transfer or discharge; and, where transfer occurs, identity of the facility of transfer, acceptance of the patient by the facility of transfer, and means of transfer of the patient.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.21(135B) Obstetric and neonatal services. All hospitals providing obstetrical care shall be properly organized and equipped to provide accommodations for mothers and newborn infants. The supervision of the maternity area shall be under the direction of a qualified registered nurse.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.22(135B) Pediatric services. All hospitals providing pediatric care shall be properly organized and equipped to provide appropriate accommodations for children. The supervision of the pediatric area shall be under the direction of a qualified registered nurse.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.23(135B) Psychiatric services.

51.23(1) General requirements. Any hospital operating as a psychiatric hospital or operating a psychiatric unit shall:

- a. Be a hospital or unit primarily engaged in providing, by or under the supervision of a doctor of medicine or osteopathy, psychiatric services for the diagnosis and treatment of persons with psychiatric illnesses/disorders;
- b. Comply with the requirements of this chapter applicable to hospitals. If medical and surgical diagnostic and treatment services are not available within the hospital, the hospital shall have an agreement with an outside source of these services to ensure they are immediately available;
- c. Have policies and procedures for informing patients of their rights and responsibilities and for ensuring the availability of a patient advocate; and
- d. Have sufficient numbers of qualified professionals and support staff to evaluate patients, formulate written individualized comprehensive treatment plans, provide active treatment measures, and engage in discharge planning.

51.23(2) Personnel.

a. *Director of inpatient psychiatric services.* The director of inpatient psychiatric services shall be a doctor of medicine or osteopathy qualified to meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry.

b. *Director of psychiatric nursing services.* The director of psychiatric nursing services shall:

- (1) Be a registered nurse who has a master's degree in psychiatric or mental health nursing;
- (2) Be an advanced registered nurse practitioner certified in psychiatric or mental health nursing; or
- (3) Be qualified by education and two years' experience in the care of persons with mental disorders.

c. *Psychological services.* Psychological services shall be provided or available that are in compliance with Iowa Code chapter 154B.

d. *Social services.* Social services shall provide, or have available by contract, at least one staff member who has:

- (1) A master's degree from an accredited school of social work; or
- (2) A bachelor's degree in social work with two years' experience in the care of persons with mental disorders.

e. *Therapeutic services.* Therapeutic activities shall be provided by qualified therapists. The activities shall be appropriate to the needs and interests of the patients.

51.23(3) Individual written plan of care. An individual written plan of care shall be developed by an interdisciplinary team of a physician and other personnel who are employed by, or who provide service under contract to patients in, the facility. The plan of care shall:

- a. Be based on a diagnostic and psychiatric evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the patient. The initial diagnostic and psychiatric evaluation shall be completed within 60 hours of admission;
- b. Be developed by an interdisciplinary team in consultation with the patient, the patient's legal guardian, and others who are currently providing services or who will provide care upon discharge;
- c. State treatment objectives through measurable and obtainable outcomes;
- d. Prescribe an integrated program of therapies, activities, and experiences designed to meet those objectives;
- e. Include an appropriate postdischarge plan with coordination of services to provide continuity of care following discharge; and

f. Be reviewed as needed by the interdisciplinary team for the continued appropriateness of the plan and for a determination of needed changes.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.24(135B) Long-term care service.

51.24(1) Long-term care service definition. Long-term care service means any building or distinct part of a building utilized by the hospital for the provision of a service that would fall within the definition of a health care facility in Iowa Code chapter 135C if it was not operating as part of a hospital licensed under Iowa Code chapter 135B.

51.24(2) Long-term care service general requirements. The general requirements for the hospital's long-term care service are the same as required by Iowa Code chapter 135C or rules promulgated thereunder for the category of health care facility involved. Exceptions to those rules requiring distinct parts to be established may be waived where it is found to be in the best interest of the long-term care resident and of no detriment to the patients in the hospital. Requests for waivers to other applicable rules may be made in accordance with the appropriate health care facility rules.

51.24(3) Long-term care service staff. Where a hospital operates a freestanding nursing care facility, it shall be under the administrative authority of a licensed nursing home administrator who will be responsible to the hospital's administrator. Where a hospital operates a distinct part long-term care unit under the hospital license, a licensed nursing home administrator is not required. Other staffing requirements for the hospital's long-term care service are the same as required by Iowa Code chapter 135C or rules promulgated thereunder.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.25(135B) Criminal, dependent adult abuse, and child abuse record checks. The requirements for criminal, dependent adult abuse, and child abuse records checks applicable to health care facilities set forth in rule 481—50.9(135C) are applicable to hospitals.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.26(135B) Minimum standards for construction.

51.26(1) Minimum standards. The following construction standards are applicable to hospitals and off-site premises licensed under this chapter:

a. Construction shall be in accordance with the standards set forth in the Guidelines for Design and Construction of Hospitals, 2018 edition, published by the Facility Guidelines Institute.

b. Existing hospitals and off-site premises built in compliance with prior editions of the hospital construction guidelines will be deemed in compliance with subsequent regulations, with the exception of any new structural renovations, additions, functional alterations, or changes in utilization to existing facilities, which shall meet the standards specified in this subrule.

c. The design and construction of a hospital or off-site premises shall be in conformance with 661—Chapter 205.

d. In jurisdictions without a local building code enforcement program, the construction shall be in conformance with the state building code, as authorized by Iowa Code section 103A.7, in effect at the time of plan submittal for review and approval. In jurisdictions with a local building code enforcement program, local building code enforcement must include both the adoption and enforcement of a local building code through plan reviews and inspections.

e. If an applicable requirement of 661—Chapter 205 is inconsistent with an applicable requirement of the state building code, the hospital or off-site premises is deemed to be in compliance with the state building code requirement if the requirement of 661—Chapter 205 is met.

51.26(2) Submission of construction documents. Submissions shall comply with rule 661—300.4(103A). The responsible design professional shall certify that the building plans meet the requirements specified in subrule 51.26(1), unless a waiver has been granted pursuant to subrule 51.26(3).

51.26(3) Waivers. Requests for waiver may be submitted to the department in accordance with 481—Chapter 6. Any waiver granted is limited to the specific project under consideration and does not establish a precedent for similar acceptance in other cases. The request must demonstrate how patient safety and the quality of care offered will not be compromised by the waiver. In determining whether a waiver request will be granted, the director will consider the following:

a. Whether the design and planning for the specific property offers improved or compensating features to provide equivalent desirability and utility;

- b. Whether alternate or special construction methods, techniques, and mechanical equipment offer equivalent durability, utility, health, and safety;
- c. Whether the health, safety or welfare of any patient is endangered;
- d. Occupancy and function of the building; and
- e. The type of licensing.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.27(135B) Critical access hospitals. Critical access hospitals shall meet the federal conditions of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F, as amended to November 7, 2023, and any federal interpretive guidelines. The requirements of this chapter applicable to hospitals are generally applicable to critical access hospitals unless compliance would be inconsistent with 42 CFR Part 485, Subpart F, as amended to November 7, 2023, and any interpretive guidelines. If swing-bed approval has been granted, all 25 beds may be used interchangeably for acute or skilled nursing facility level of care services.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.28(135B) Rural emergency hospitals. Rural emergency hospitals shall meet the federal conditions of participation for rural emergency hospitals, as set forth in 42 CFR Part 485, Subpart E, as amended to January 1, 2023, and any federal interpretive guidelines. The requirements of this chapter applicable to hospitals are generally applicable to rural emergency hospitals unless compliance would be inconsistent with 42 CFR Part 485, Subpart E, as amended to January 1, 2023, and any federal interpretive guidelines.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

481—51.29(135B) Specialized hospitals. A specialized hospital shall meet the requirements for a general hospital. The diagnosis, treatment or care at a specialized hospital shall be administered by or performed under the direction of persons especially qualified in the diagnosis and treatment of the particular illness, injury, or infirmity.

[ARC 7887C, IAB 5/1/24, effective 6/5/24]

These rules are intended to implement Iowa Code sections 135B.3A, 135B.7 and 135B.7A.

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◇ Two or more ARCs

¹ Hospital Protocol for Donor Requests as it appeared in IAC 641—Chapter 180 prior to 4/4/90.

² January 16, 2013, effective date of 51.24(3) [ARC 0484C] delayed 70 days by the Administrative Rules Review Committee at its meeting held January 8, 2013.

CHAPTER 52

dependent adult abuse in facilities and programs

481—52.1(235E) Definitions. The definitions set forth in Iowa Code section 235E.1 are incorporated herein by reference. For purposes of this chapter, unless the context otherwise requires, the following definitions apply:

“Caretaker” means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. For the purpose of an allegation of exploitation, if the caretaker-dependent adult relationship started when a staff member was employed in the facility, the staff member may be considered a caretaker after employment is terminated.

“Confidentiality” means the withholding of information from any manner of communication, public or private.

“Dependent adult abuse” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual exploitation, exploitation, neglect, or personal degradation.

“Gross negligence” means an act or omission that signifies more than ordinary inadvertence or inattention, but less than conscious indifference to consequences; and, in other words, means an extreme departure from the ordinary standard of care.

“Immediately,” for purposes of mandatory reporters’ reporting of suspected dependent adult abuse, means within 24 hours.

“Inspector” means a surveyor, monitor or investigator with the department or any department designee.

“Misappropriates” means taking unfair advantage of or wrongfully or dishonestly exercising control over property.

“Physical injury” means a physical injury, or injury which is at a variance with the history given of the injury, which involves a breach of skill or care or learning ordinarily exercised by a caretaker in similar circumstances. “Physical injury” includes damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.

“Registry” means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.

“Report” means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

“Resident” means a resident of a health care facility as defined in Iowa Code chapter 135C, a patient in a hospital as defined in Iowa Code chapter 135B, a tenant of an assisted living program as defined in Iowa Code chapter 231C, a tenant in an elder group home as defined in Iowa Code chapter 231B, or a participant in an adult day services program as defined in Iowa Code chapter 231D.

“Sexual exploitation” means any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. “Sexual exploitation” includes but is not limited to:

1. Kissing;
2. Touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals;
3. A sex act as defined in Iowa Code section 702.17;
4. The transmission, display or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment, care, monitoring, assessment or diagnosis or as part of an ongoing investigation.

“Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

“Sexual offense” means the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.

“Staff member” means an individual who provides direct or indirect treatment or services to residents in a facility or program. Specifically included in the definition of “staff member” is an employee, health care employment agency worker, or other independent contractor who otherwise meets the definition. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded

from the definition of “staff member” are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.

“*Unreasonable confinement*” means confinement that includes but is not limited to the use of restraints, either physical or chemical, for the convenience of staff. “Unreasonable confinement” does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraint or as authorized by a physician or physician extender.

“*Unreasonable punishment*” means a willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

“*Willful misconduct*” means an intentional act of unreasonable character committed with disregard for a known or obvious risk that is so great as to make it highly probable that harm will follow.

[ARC 8294B, IAB 11/18/09, effective 1/1/10; ARC 3235C, IAB 8/2/17, effective 9/6/17; ARC 6801C, IAB 1/11/23, effective 2/15/23]

481—52.2(235E) Persons who must report dependent adult abuse and the reporting procedure for those persons.

52.2(1) Persons who must report dependent adult abuse. The following persons shall report suspected dependent adult abuse in accordance with subrule 52.2(2) below.

a. A staff member. Specifically excluded from the definition of “staff member” only for purposes of the requirements set forth in this subrule are individuals who have no contact or de minimis contact with residents in a facility or program.

b. A health care employment agency in accordance with 481—Chapter 55.

52.2(2) Reporting suspected dependent adult abuse in facilities or programs.

a. If a staff member or employee is required to make a report pursuant to this rule, the staff member or employee shall immediately notify the person in charge or the person’s designated agent who shall then notify the department within 24 hours of such notification or the next business day.

b. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within 24 hours or the next business day.

c. Nothing in this subrule prevents a mandatory reporter or any other person from notifying the department directly of any suspected abuse.

d. The employer or supervisor of a person who is required to or may make a report pursuant to this rule shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

e. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person should also immediately make an oral report to an appropriate law enforcement agency.

f. A report of suspected dependent adult abuse shall contain as much of the following information as the person making the report is able to furnish:

(1) The date and time of the incident;

(2) The name, date of birth and diagnoses of the dependent adult;

(3) Whether the dependent adult sustained an injury and, if yes, whether photographs of the injury were taken;

(4) The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse allegations;

(5) A list of the staff members working at the time of the incident, including each staff member’s full name, title, date of birth, address and telephone number;

(6) The alleged perpetrator’s full name, title, date of birth, social security number, address and telephone number;

(7) Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse or helpful in providing assistance to the dependent adult; and

(8) The name, address and telephone number of the person making the report.

52.2(3) A report shall be accepted whether or not it contains all of the information requested. When the report is made to any agency other than the department, that agency shall promptly refer the report to the department.

52.2(4) A person required to report abuse who knowingly and willfully fails to do so within 24 hours may be subject to criminal penalties and civil liability as provided for by statute.

52.2(5) Interference with a person required to report.

a. It is unlawful for any person or employer to discharge, suspend, or otherwise discipline a person for any of the following:

- (1) For reporting suspected dependent adult abuse;
 - (2) For cooperating with or assisting the department in evaluating or investigating a case of dependent adult abuse; or
 - (3) For participating in judicial proceedings relating to dependent adult abuse.
- b. A person or employer found in violation of this subrule is guilty of a simple misdemeanor.

[ARC 8294B, IAB 11/18/09, effective 1/1/10; ARC 6801C, IAB 1/11/23, effective 2/15/23]

481—52.3(235E) Reports and registry of dependent adult abuse.

52.3(1) *Receipt and evaluation of reports.* The department shall receive and evaluate reports of dependent adult abuse in facilities and programs. The department shall inform the department of human services of such evaluations and dispositions for inclusion in the central registry for dependent adult abuse information pursuant to Iowa Code section 235B.5.

52.3(2) *Reports sent to the department or the department of human services.* Any person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department. The department shall transfer any reports received of dependent adult abuse in the community to the department of human services in accordance with Iowa Code section 235E.2(5).

52.3(3) *Reports of abuse that is minor, isolated, and unlikely to reoccur.*

a. *Minor, isolated, and unlikely to reoccur—first instance.* A report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services for a five-year period, shall not be included in the central registry, and shall not be considered founded dependent adult abuse.

b. *Minor, isolated, and unlikely to reoccur—subsequent instance(s).* A subsequent report of dependent adult abuse that meets the definition of “dependent adult abuse” as defined in Iowa Code section 235E.1(5) “a”(1)(a) or (d), or section 235E.1(5) “a”(3), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

c. *Retention of reports.* All initial and subsequent reports are collected and maintained by the department of human services until a five-year period has expired, so long as no additional reports have been filed.

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481—52.4(235E) Financial institution employees and reporting suspected financial exploitation. Rescinded ARC 6801C, IAB 1/11/23, effective 2/15/23.

481—52.5(235E) Evaluation of report. Upon receipt of a report as defined in rule 481—52.1(235E), the department shall conduct an intake sufficient to determine whether the allegation constitutes dependent adult abuse as defined in rule 481—52.1(235E).

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.6(235E) Separation of victim and alleged abuser. Upon receiving a claim of dependent adult abuse of a dependent adult in a facility or program, the facility or program shall separate the victim and the alleged abuser immediately and shall maintain that separation until the department’s abuse investigation is completed and the abuse determination is made.

NOTE: Facilities that participate in the federal Medicare or Medicaid program may be subject to additional federal requirements regarding separation.

[ARC 8294B, IAB 11/18/09, effective 1/1/10]

481—52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations.

52.7(1) *Entering and examining evidence at a facility or program.* An inspector of the department may enter any facility or program without a warrant and may examine all records and items pertaining to residents, employees, former employees, and the alleged dependent adult abuser and any other records and items necessary to ensure the integrity of the investigation unless the record or item is protected by some other legal privilege.

52.7(2) *Interviews.*

a. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who might have knowledge about the alleged dependent adult abuse.

b. An alleged dependent adult abuser may request to have an attorney present at the alleged dependent adult abuser’s expense at any time during the interview, but the request may not unreasonably delay the investigation. An employee organization representative or union representative may observe an investigative interview conducted by the

department of an alleged dependent adult abuser if all of the conditions set forth in Iowa Code section 235E.2(13) “a” are met.

The purpose of the interview is a civil administrative dependent adult abuse investigation under applicable law.

52.7(3) *Photographs of victim, vicinity and related matters.* An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved in accordance with Iowa Code section 235E.2(12).

52.7(4) *Evaluating information.* An inspector shall consider the information as reported, other known or discovered information, and any information gathered as a result of the inspector’s contact with collateral sources, including prior abuse allegations and disciplinary actions.

[ARC 8294B, IAB 11/18/09, effective 1/1/10; ARC 6801C, IAB 1/11/23, effective 2/15/23]

481—52.8(235E) Notification to subsequent employers. The department shall notify a facility or program that subsequently employs an alleged or founded dependent adult abuser in accordance with Iowa Code section 235E.2(11).

[ARC 8294B, IAB 11/18/09, effective 1/1/10; ARC 6801C, IAB 1/11/23, effective 2/15/23]

These rules are intended to implement Iowa Code chapter 235E.

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CHAPTER 53 HOSPICE LICENSE STANDARDS

481—53.1(135J) Definitions. The use of the word “shall” indicates mandatory standards. The definitions set out in Iowa Code section 135J.1 shall be considered to be incorporated verbatim in the rules. As used in this chapter:

“*Bereavement service*” is emotional, psychosocial, and spiritual support and services provided before and after the death of the patient to assist with issues related to grief, loss, and adjustment.

“*Care setting*” means the place in which care is being given, for example, patient’s home, a hospital, a care facility or another place of residence.

“*Family*” means the immediate kin of the patient, including a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, child, or stepchild. Additional relatives or individuals with significant personal ties to the hospice patient may be included in the hospice patient’s family.

“*Home care provider*” means a care agency that contracts with the hospice to provide services in the home of the hospice patient. The providers may include, but are not limited to, hospice aides, homemakers, nurses, occupational therapists or physical therapists.

“*Primary caregiver*” means the person with major responsibility for providing care to a hospice patient.

“*Protocols*” are defined as written sets of directions to be followed in performing procedures. These may be routine or may describe specific actions staff must follow when particular events occur.

“*Psychosocial needs*” involve a person’s mental and emotional life related to behavior to other people.

“*Social services*” are services provided by someone who has a bachelor’s or higher degree in social work.

“*Spiritual counselor*” may be clergy, a hospice employee, a volunteer or someone chosen by the patient.

“*Utilization review*” means a program to assess the kind of care delivered and to identify needs which may not have been met.

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.2(135J) License. Application for an initial or renewal license may be obtained from the Department of Inspections and Appeals, Division of Health Facilities, Lucas State Office Building, Des Moines, Iowa 50319.

53.2(1) Prior to the issuance of a license each hospice must meet all the requirements set forth in this chapter.

53.2(2) The applicant shall submit a nonrefundable biennial license fee of \$500. If a license lapses for failure to make timely application for renewal, an additional 25 percent is required.

53.2(3) Each hospice seeking licensure is surveyed before the initial license is issued and at least every 36 months thereafter.

53.2(4) Home care provider and inpatient facilities used by the hospice shall be inspected by the department to determine whether hospice regulations are met.

53.2(5) Hospices certified as Medicare providers by the department or accredited by an organization approved by the Centers for Medicare and Medicaid Services for federal certification will be licensed without inspection.

53.2(6) The department may not prohibit any entity from establishing or maintaining a hospice without a license.

53.2(7) The department may deny, suspend or revoke a license if the department finds that a hospice does not comply with these rules.

53.2(8) A license is issued only for the premises, person, hospital or facility named on the application. The license may not be transferred or assigned to another person or entity.

53.2(9) A license expires two years after the date issued unless it is suspended or revoked before that date.

This rule is intended to implement Iowa Code sections 135J.2 and 135J.4 to 135J.6.

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.3(135J) Patient rights. Each hospice program shall have written policies and procedures that support, enhance and protect the human, civil, constitutional and statutory rights of all patients.

53.3(1) Patient rights include, but are not limited to, the right to:

- a. Be treated with dignity and respect;
- b. Be informed of the type of care and the services provided by the hospice program;
- c. Information regarding diagnosis and prognosis and any change in either;
- d. Review and participate in their plan of care; and
- e. Privacy.

53.3(2) A copy of these rights shall be provided to all individuals admitted to a hospice.

This rule is intended to implement Iowa Code section 135J.3(3).

481—53.4(135J) Governing body. The hospice shall have a local governing body which consists of people who represent the geographic area for which the hospice intends to provide service.

53.4(1) The governing body shall:

- a. Develop a written mission statement, goals and objectives for the hospice and meet with sufficient regularity to ensure accomplishment of those goals and objectives;
- b. Develop, amend and implement bylaws;
- c. Assume responsibility for the total operation of the hospice;
- d. Appoint an administrator whose qualifications and duties are defined in writing and who has authority to manage the business affairs and to direct all programs of the hospice;
- e. Provide for medical direction by a licensed physician, including naming a qualified physician to be available in the medical director's absence;
- f. Provide appropriate, qualified personnel in sufficient quantity to ensure availability of hospice services listed below. Physician and nursing services and the provision of appropriate drugs shall be available 24 hours a day, seven days a week;

- g. Develop and implement written policies and procedures relating to:

- (1) Admission and discharge criteria,
- (2) Response to referrals,
- (3) Medical direction,
- (4) Physician services,
- (5) Nursing services,
- (6) Nutritional services,
- (7) Pharmacy services,
- (8) Social services,
- (9) Volunteer services,
- (10) Spiritual services,
- (11) Patient and family education,
- (12) Bereavement services,
- (13) Staff response to death at home and in institutions,
- (14) Coordination and communication between all agencies serving the patient and family,
- (15) Communication with community agencies, and
- (16) Community education efforts;

- h. Develop and implement written personnel policies; and

- i. Develop and implement a written plan for review of the services delivered.

53.4(2) The governing body shall ensure that someone is responsible to:

- a. Organize and direct the ongoing functions of the hospice program;
- b. Meet the requirements of the written job descriptions;
- c. Maintain liaison with the governing body and staff to ensure administrative control and professional supervision over all patient and family services furnished;
- d. Provide orientation and in-service training for all staff which covers the physical, emotional, spiritual and social needs of hospice patients and their families during the final stages of illness, at death and during grief;
- e. Plan, organize, implement, guide and evaluate the program;
- f. Formulate and conduct a review of policies and procedures, including quality assurance; and
- g. Ensure that all required reports and records are completed, submitted and maintained. This includes personnel, administrative and clinical records.

This rule is intended to implement Iowa Code section 135J.3.

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.5(135J) Quality assurance and utilization review. The hospice must have a written procedure for individual assessment of care provided, a process for identifying problems and a system to report findings and recommendations for improving the quality of care delivered to the governing body.

53.5(1) The medical director, patient coordinator and social worker used by the hospice program shall review a minimum of a 10 percent sample of combined active and inactive clinical records of care delivered to hospice patients on a periodic and ongoing basis. A written summary shall be prepared for each individual assessment, commenting on the amount and kind of care delivered and including statements addressing any unmet needs.

53.5(2) All summaries of individual assessments shall be reviewed by the people responsible for coordinating quality assurance on a periodic and ongoing basis. A written report will be prepared addressing any identified problems with care, treatment services, availability of services and methods of care delivery.

53.5(3) The quality assurance reports shall be made available to the hospice administrator and governing body. The reports shall be reviewed by the governing body at least annually, and the review recorded in the governing body's meeting minutes.

This rule is intended to implement Iowa Code section 135J.3(8).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.6(135J) Attending physician services. The patient or family shall designate an attending physician or physician assistant who is responsible for managing necessary medical care. The attending physician shall:

1. Have an active Iowa license pursuant to Iowa Code chapter 148 or 148C;
2. Certify in conjunction with the medical director that each person requesting admittance is eligible as required by Iowa Code section 135J.1(3) for hospice care;
3. Be responsible for the medical component of the plan of care;
4. Participate in developing and revising the plan of care;
5. Arrange for continuity of the medical management in the attending physician's absence; and
6. Monitor the condition of the patient and family by direct contact, or communication with the interdisciplinary team (IDT) and others.

This rule is intended to implement Iowa Code section 135J.3(4).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.7(135J) Medical director. Each hospice shall have a medical director who is a physician licensed to practice medicine pursuant to Iowa Code chapter 148. The medical director shall:

1. Be a member of the interdisciplinary team;
2. Monitor the quality of care provided;
3. Assist in providing assurance of the quality of care provided to the patient and family;
4. Maintain liaison with the attending physician;
5. Review clinical material from the patient's attending physician to certify the prognosis as anticipated by that physician;
6. Participate in providing direction for the medical component of care;
7. Participate in resolving conflicts regarding care to be provided; and
8. Participate in the development and review of patient care policies, procedures and protocols.

This rule is intended to implement Iowa Code section 135J.3(1).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.8(135J) Interdisciplinary team (IDT). The IDT shall establish a plan of care for each patient based on assessments performed by team members.

53.8(1) The interdisciplinary team shall include, but is not limited to, the:

- a. Patient, to the extent the patient is able and willing to participate;
- b. Hospice patient's family, to the extent the family is able and willing to participate;
- c. A doctor of medicine or osteopathy who is an employee of or under contract with the hospice;
- d. Patient care coordinator;
- e. Registered nurse;
- f. Social worker; and may include
- g. A pastoral or other counselor and others deemed appropriate by the hospice.

53.8(2) Within 48 hours of admission, the attending physician or registered nurse and at least one IDT team member shall develop an initial plan based on a preliminary assessment of the patient needs.

53.8(3) Within five calendar days of admission, the interdisciplinary team shall assess the needs of the patient and family. A care plan shall be based on these findings.

53.8(4) Within five calendar days of admission, the interdisciplinary team shall meet to develop a comprehensive written plan of care. The plan of care shall:

- a. Identify the primary caregiver or an alternate arrangement for care;
- b. List the needs of the patient and family;
- c. List any intervention planned to meet the needs of the patient and family and the results expected from each intervention;
- d. Indicate which team member(s) is responsible for each intervention;

- e.* Indicate the anticipated frequency of each intervention; and
- f.* Indicate the prognosis and expected disease process.

53.8(5) The IDT shall monitor and revise the plan of care on a regular basis. The team shall meet at least every 15 days and exchange information regarding the needs of the patient and family. Changes in the care plan shall be made when the needs of the patient or family change or when interventions do not result in the expected or intended response.

This rule is intended to implement Iowa Code section 135J.3(5).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.9(135J) Nursing services. Nursing services shall be planned and provided or supervised by a registered nurse who has a current Iowa license to practice nursing. The service shall be available 24 hours a day, seven days a week.

53.9(1) A registered nurse shall assess patient and family nursing needs and develop a nursing plan of care to meet these needs.

53.9(2) The nursing service staff shall:

- a.* Participate in IDT meetings to develop and amend the plan of care;
- b.* Provide nursing service in accordance with the overall plan of care developed by the IDT;
- c.* Consult with the patient and family regarding how to meet nursing and nursing-related needs of the patient;
- d.* Document nursing care given and observations made regarding patient, family reactions and status;
- e.* Consult with other care providers and the family to enhance continuity of care;
- f.* Develop and implement nursing service objectives, policies and procedures; and
- g.* Assign duties to nurses and hospice aides consistent with their education and experience.

53.9(3) Persons who are employed by, volunteer with or work under contract to a licensed hospice organization may administer medications only if they are also a licensed nurse, a licensed physician or a certified medication aide.

This rule is intended to implement Iowa Code section 135J.3(2).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.10 Reserved.

481—53.11(135J) Coordinator of patient care.

53.11(1) A registered nurse, social worker or health care administrator shall be designated to coordinate implementation of the plan of care for each patient.

53.11(2) The coordinator of patient care shall at least:

- a.* Coordinate all aspects of patient care to ensure continuity, including care by all service disciplines in all care settings;
- b.* Facilitate exchange of information among all personnel who provide services to ensure complementary efforts and support for objectives outlined in the plan of care;
- c.* Facilitate communication between caregivers, patient and family;
- d.* Maintain a roster of patients;
- e.* Maintain a schedule for IDT review of care plans;
- f.* Chair IDT conferences;
- g.* Develop job descriptions for all nursing personnel;
- h.* Establish staff schedules to meet patient needs and ensure 24-hour service;
- i.* Develop and implement orientation and training programs;
- j.* Develop and implement performance evaluation for the nursing staff; and
- k.* Facilitate periodic meetings of the professional nursing staff to evaluate the nursing care provided by hospice personnel.

This rule is intended to implement Iowa Code section 135J.3(2).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.12(135J) Social services. Medical social services must be provided by a qualified social worker, under the direction of a physician. Social work services must be based on the patient's psychosocial assessment and the patient's and family's needs and acceptance of these services.

53.12(1) Education and experience. A qualified social worker is a person who:

- a.* Has a master of social work (MSW) degree from a school of social work accredited by the Council on Social Work Education; or

b. Has a baccalaureate degree in social work from an institution accredited by the Council on Social Work Education; or

c. Has a baccalaureate degree in psychology, sociology, or other field related to social work and is supervised by an MSW as described in paragraph 53.12(1)“a”; and

d. Has one year of social work experience in a health care setting; or

e. Has a baccalaureate degree from a school of social work accredited by the Council on Social Work Education, was employed by the hospice before December 2, 2008, and is not required to be supervised by an MSW.

53.12(2) The social worker shall at least:

a. Consider the emotions and social support system of the patient;

b. Identify patient social service needs;

c. Participate on the IDT to develop and amend the plan of care;

d. Provide services in accordance with the plans of care developed by the IDT;

e. Document services provided and observations made regarding patient and family response and status; and

f. Cooperate and communicate with other providers and the family to enhance the continuity of care.

This rule is intended to implement Iowa Code section 135J.3(2).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.13(135J) Counseling services. Counseling is the process of helping people adjust to the grief of illness, dying and loss. Counseling shall be provided in accordance with the plan of care. When the interdisciplinary team identifies the need for additional counseling services, a team member shall be designated to make an appropriate referral. No referrals may be made without the agreement of the patient and the family.

This rule is intended to implement Iowa Code section 135J.3(2).

481—53.14(135J) Volunteer services. Each hospice shall provide volunteer services to meet patient and family needs. A coordinator of volunteer services shall be designated to implement written policies and procedures. Volunteers must be used in defined roles and under the supervision of a designated hospice employee. The hospice must maintain, document and provide volunteer orientation and training that is consistent with hospice industry standards.

This rule is intended to implement Iowa Code section 135J.3(2).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.15(135J) Spiritual counseling. Spiritual counseling shall be available to all patients and their families.

53.15(1) Spiritual counseling shall:

a. Be based on the beliefs and values of the patient and family; and

b. Be provided in accordance with the interdisciplinary plan of care.

53.15(2) If spiritual counseling is provided through a working relationship with clergy or other spiritual counselors in the community, there shall be ongoing communication between that counselor and the interdisciplinary care team.

53.15(3) There shall be written and implemented policies and procedures regarding spiritual counseling.

This rule is intended to implement Iowa Code section 135J.3(2).

481—53.16(135J) Optional services. Optional services are services provided by the hospice which are not required. Examples are hospice aide, therapy and respite. The following apply to the provision of all optional services provided by a hospice:

53.16(1) All service providers shall be oriented to the hospice concept and philosophy.

53.16(2) All services shall be provided in accordance with the interdisciplinary plan of care.

53.16(3) Written and implemented policies and procedures shall:

a. Identify service providers;

b. Identify the person who will supervise the provision of services;

c. Require documentation of services provided and patient and family response; and

d. Describe a mechanism for evaluating quality of care provided.

This rule is intended to implement Iowa Code section 135J.1(7).

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

481—53.17(135J) Contracted services. A hospice may contract with other health care providers for the provision of all services.

53.17(1) Contracts shall be written and clearly delineate the authority and responsibility of each party to the contract.

53.17(2) The hospice shall maintain responsibility for coordinating and administering the hospice program.

53.17(3) Contracting for a service does not absolve the hospice of legal responsibility for provision of that service.

53.17(4) The hospice shall inform the patient whether the hospice is paying for the contracted services.

This rule is intended to implement Iowa Code section 135J.3(2).

481—53.18(135J) Short-term hospital services. Each hospice shall have a written agreement with a local or area hospital which promotes continuation of the hospice plan of care and training for hospital staff who care for hospice patients.

This rule is intended to implement Iowa Code section 135J.3(2).

481—53.19(135J) Bereavement services. Bereavement services shall be available to each family after the death of a patient and shall be provided in accordance with family needs.

53.19(1) Bereavement services shall include:

a. Exchange of information between people who provide bereavement services and team members who provided care before death;

b. Consideration of the family's situation, including risk factors, used to develop a plan for services;

c. Identification of types of help or intervention to be available and provided;

d. Contact with the family after the death as required by their needs as documented in the plan of care; and

e. A process to assess family reactions and hospice referrals for intervention deemed appropriate by the IDT.

53.19(2) There shall be written and implemented policies and procedures governing the delivery of bereavement services.

This rule is intended to implement Iowa Code section 135J.3(6).

481—53.20(135J) Records. In accordance with accepted principles of medical record practice, each hospice shall maintain a centralized complete record on every individual receiving services. This record shall be preserved for at least six years following termination of services.

53.20(1) Each entry shall be dated and signed, including the name and title of the person who makes the entry.

53.20(2) The record shall include documentation of all services provided, whether furnished by the hospice or by contractual agreement. Each record shall include, but not be limited to:

a. Patient identification and demographic data;

b. Initial and subsequent assessments;

c. The plan of care;

d. Medical history;

e. Documentation of all services provided;

f. Consent and authorization forms;

g. Physicians' orders;

h. Medication records;

i. Discharge summary; and

j. Discharge and transfer records.

53.20(3) The hospice shall have written and implemented policies to safeguard destruction or unauthorized use of patient records. Written procedures shall govern use and removal of records, conditions for release of information and identification by title of the person who may release records.

[ARC 6975C, IAB 4/5/23, effective 5/10/23]

These rules are intended to implement Iowa Code sections 135J.1 to 135J.6.

[Filed 4/12/90, Notice 12/27/89—published 5/2/90, effective 6/6/90]

[Filed ARC 6975C (Notice ARC 6878C, IAB 2/8/23), IAB 4/5/23, effective 5/10/23]

CHAPTER 54
GOVERNOR'S AWARD FOR QUALITY CARE

481—54.1(135C) Purpose. A governor's award for quality care is established to recognize health care facilities in Iowa that demonstrate provision of the highest quality care to residents. Health care facilities eligible for nomination and selection must be licensed pursuant to Iowa Code chapter 135C.

481—54.2(135C) Definitions.

"Community living training services" means 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.

"Department" means the department of inspections and appeals.

"Director" means the director of the department of inspections and appeals or the director's designee.

"Health care facility" or *"facility"* means residential care facilities, nursing facilities, intermediate care facilities for persons with mental illness, and intermediate care facilities for persons with an intellectual disability licensed pursuant to Iowa Code chapter 135C.

"Nursing care" means those services that can be provided only under the direction of a registered nurse or licensed practical nurse.

"Personal care" means assistance with those activities of daily living that 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 of medications that can be self-administered.

"Rehabilitative services" means services to encourage and assist restoration of optimum mental and physical capabilities of the individual resident of a health care facility.

"Social services" means services relating to the psychological and social needs of the individual in adjusting to living in a health care facility and minimizing stress arising from that circumstance.

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

481—54.3(135C) Nomination. The department shall make available a nomination application no later than January 1 of each year. The department shall accept nominations until March 1 of each year.

481—54.4(135C) Applicant eligibility. Eligible nominations shall be made by a resident, family member of a resident or another health care facility. A health care facility cannot nominate itself for the award; however, this prohibition shall not apply to facilities with common ownership.

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—54.5(135C) Nomination information. Applications for the governor's quality care award shall contain but not be limited to the following information:

54.5(1) The reasons that the nominated facility should be considered.

54.5(2) Any unique or special care or services provided by the facility to its residents. Care or services include any unique or special nursing care, personal care, rehabilitative services, social services, or community living training services provided by the facility for its residents or involvement with the local community.

54.5(3) Activities conducted by the facility to enhance the quality of life for its residents.

481—54.6(135C) Evaluation. The department shall review all nominations and select finalists based upon the material(s) provided in the nomination forms. The department shall also consider the following factors in making its selections:

54.6(1) The facility report card completed pursuant to Iowa Code section 135C.20A.

54.6(2) Any unique services provided by a facility to its residents to improve the quality of care in the facility.

54.6(3) Any information submitted by resident advocacy committee members, residents, a resident's family members, or facility staff with regard to the quality of care provided by the facility to its residents.

54.6(4) Whether the facility accepts residents for whom costs are paid under Iowa Code chapter 249A.

54.6(5) Whether there are any outstanding complaints against the facility, as well as the resolution of any complaint already investigated by the department.

54.6(6) Whether the annual fiscal review conducted by the department indicated any irregularities in the residents' accounts.

481—54.7(135C) Selection of finalists. When reviewing the nominations, the department shall rank all facilities according to the above criteria. The ranked list of facilities shall be provided to the director for further review and consideration. When the final selection is made, no more than two facilities from each congressional district shall be recognized as award winners.

481—54.8(135C) Certificate of recognition. Prior to the final selection of facilities, representatives from the department will tour all facilities still in contention to determine the winners. Each winning facility will receive a certificate in recognition of its designation as a quality health care provider. The winning facilities shall be announced and recognized annually.

[ARC 6860C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code sections 10A.104(5), 135C.14 and 135C.20B.

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[Filed ARC 6860C (Notice ARC 6742C, IAB 12/14/22), IAB 2/8/23, effective 3/15/23]

CHAPTER 55

HEALTH CARE EMPLOYMENT AGENCIES

481—55.1(89GA, HF2521) Definitions. The definitions set forth in Iowa Code section 135Q.1 as enacted by 2022 Iowa Acts, House File 2521, are incorporated herein by reference. As used in this chapter, unless the context otherwise requires, the following terms apply:

“Direct services” includes services performed by registered nurses, licensed practical nurses, certified nurse aides, certified medication aides, and medication managers. “Direct services” does not include the practice of medicine and surgery or osteopathic medicine and surgery by an individual licensed under Iowa Code chapter 148 or 148C or the practice of nursing by an advanced registered nurse practitioner or an advanced practice registered nurse licensed under Iowa Code chapter 152 or 152E. For purposes of this chapter, janitorial, housekeeping, laundry, and meal preparation services are not considered direct services.

“Health care employment agency” does not include a recruitment firm that contracts with a health care entity to identify and screen potential candidates for hire and does not provide agency workers for temporary, temporary-to-hire, direct hire, or other contract or employee placements in this state. “Health care employment agency” does not include a group of physical therapists licensed under Iowa Code chapter 148A, occupational therapists licensed under Iowa Code chapter 148B, or speech pathologists or audiologists licensed under Iowa Code chapter 154F providing services to a health care entity.

“Health care entity” includes, but is not limited to, any entities licensed or certified pursuant to Iowa Code chapters 135B (hospitals), 135C (health care facilities), 135G (subacute mental health care facilities), 135H (psychiatric medical institutions for children), 135J (licensed hospice programs), 231C (assisted living programs), and 231D (adult day services) or any ambulatory surgical center, home health agency, hospice, end-stage renal disease center, rural health clinic, or federally qualified health care center certified by the Centers for Medicare and Medicaid Services.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.2(89GA, HF2521) Health care employment agency registration.

55.2(1) A health care employment agency operating in the state shall file a statement of registration and pay a registration fee in accordance with Iowa Code section 135Q.2(1) as enacted by 2022 Iowa Acts, House File 2521. A health care employment agency with multiple locations may complete one registration containing the information required in subrule 55.2(3) for each location and may remit one payment for the total registration fee required.

a. A health care employment agency in operation prior to July 1, 2022, shall register with the department no later than January 4, 2023.

b. A health care employment agency in operation on or after July 1, 2022, shall register with the department 30 days prior to operation.

55.2(2) The statement of registration may be submitted electronically via an Internet-based system provided by the department for such purpose; by mail to the Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by fax to (515)242-5022.

55.2(3) The registrant shall include, at a minimum, the following information on the statement of registration:

- a.* Name(s) of the owner(s) and managing entity(ies);
- b.* Location of the health care employment agency, including street address, city, and ZIP code; and
- c.* Contact information for the owner(s) and managing entity(ies), including telephone number, mailing address, and email address.

55.2(4) The health care employment agency shall notify the department of any changes to the information on the annual statement of registration within 30 days of the date the change occurs, including cessation of operation. Changes shall be submitted in the manner described in subrule 55.2(2).

55.2(5) The department shall issue each location a separate certification of registration upon approval of registration and payment of the fee.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.3(89GA, HF2521) General requirements. A health care employment agency shall adhere to all requirements under Iowa Code section 135Q.2(2) as enacted by 2022 Iowa Acts, House File 2521, and do all of the following:

55.3(1) *Verification of employment standards.* A health care employment agency shall ensure that its agency workers comply with all applicable state and federal requirements under Iowa Code sections 135Q.2(2) “a” through “c” as enacted by 2022 Iowa Acts, House File 2521, including but not limited to the following:

- a. The health care employment agency shall ensure completion of all requirements regarding criminal, dependent adult abuse, and child abuse record checks that would otherwise be the responsibility of the health care entity if the health care entity employed the agency worker directly;
- b. The health care employment agency shall ensure completion of the physical examination and screening and testing for tuberculosis procedures that would otherwise be the responsibility of the health care entity if the health care entity employed the agency worker directly; and
- c. The health care employment agency shall ensure that an agency worker has completed all education, training, and continuing education requirements for the agency worker’s occupation and that the agency worker is in good standing with any minimum licensing or certification standards to appropriately engage in the workers’ profession.

55.3(2) *Allegations of dependent adult abuse.*

a. If a health care employment agency receives an allegation of dependent adult abuse against an agency worker, the health care employment agency shall immediately notify the facility in which the alleged abuse occurred so that the facility may immediately separate the victim and alleged dependent adult abuser. The health care employment agency shall also notify the department within 24 hours or the next business day. If the health care employment agency has reason to believe that immediate protection for the dependent adult is advisable, the health care employment agency should also make an oral report to an appropriate law enforcement agency. After receiving notice of an allegation of dependent adult abuse against an agency worker and before the department’s dependent adult abuse investigation is completed and the abuse determination is made, the health care employment agency shall disclose such investigation to any prospective health care entity with which the agency worker will be placed.

b. In addition to any other requirement under state or federal law with respect to the receipt of an allegation of dependent adult abuse, if a health care entity receives an allegation of dependent adult abuse against an agency worker, the health care employment agency shall immediately notify the health care employment agency of the allegation. This does not except the health care entity from any of its duties with respect to alleged dependent adult abuse under state or federal law.

c. If the health care employment agency terminates the alleged dependent adult abuser as a result of the investigation or the alleged dependent adult abuser resigns, the alleged dependent adult abuser shall disclose such termination or investigation to any prospective facility or program employer.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.4(89GA, HF2521) Prohibitions.

55.4(1) A health care employment agency shall not restrict the employment opportunities of an agency worker in accordance with Iowa Code section 135Q.2(3) as enacted by 2022 Iowa Acts, House File 2521.

55.4(2) Subrule 55.4(1) shall not apply to a contract between a health care employment agency and a health care entity or a health care employment agency worker that meets all of the following criteria:

- a. The contract is for the purpose of placing an agency worker the health care employment agency assisted in obtaining authorization to work in the United States;
- b. The contract contains an initial contract term of no less than 24 months and has a total duration, including any renewals or extensions, of no longer than 36 months; and
- c. The contract requires the agency worker to work at a single health care entity for the duration of the contract.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.5(89GA, HF2521) Record retention and reporting.

55.5(1) *Document retention.* A health care employment agency shall maintain documentation in its files regarding each agency worker’s compliance with the minimum licensing, certification, training, health requirements, and continuing education standards as described in subrule 55.3(1). A health care employment agency shall provide copies of this documentation to a health care entity for a contracted agency worker upon request.

55.5(2) *External reporting.* A health care employment agency shall report, file, or otherwise provide any required documentation pursuant to Iowa Code section 135Q.2(2) “c” as enacted by 2022 Iowa Acts, House File 2521, including, but not limited to:

- a. For any agency workers who are certified nurse aides, the health care employment agency shall report to the direct care worker registry completed work assignments of the agency worker sufficient to maintain an active status on the registry pursuant to requirements set forth in 441—subparagraph 81.16(5) “c”(2), 441—paragraph 81.16(5) “e,” and 42 CFR 483.35(d)(6) and 483.156(c)(2).

b. The health care employment agency shall report allegations of dependent adult abuse as set forth in subrule 55.3(3).

55.5(3) *Quarterly reporting to the department.*

a. The quarterly report required by Iowa Code section 135Q.2(4) as enacted by 2022 Iowa Acts, House File 2521, shall provide the following:

(1) A detailed list of each health care entity participating in Medicare or Medicaid with whom the agency has contracted over the prior quarter;

(2) A detailed list of the average amount charged by the health care employment agency to the health care entity participating in Medicare or Medicaid over the prior quarter, broken down by provider type (e.g., hospital, nursing facility) and each individual agency worker category (e.g., certified nurse aide, registered nurse, licensed practical nurse) within that provider type; and

(3) A detailed list of the average amount paid by the health care employment agency participating in Medicare or Medicaid to agency workers over the prior quarter, broken down by provider type (e.g., hospital, nursing facility) and each individual agency worker category (e.g., certified nurse aide, registered nurse, licensed practical nurse) within that provider type.

b. The report data and submission dates shall be as follows:

(1) The quarterly report containing data from January 1 through March 31 shall be submitted no later than April 15;

(2) The quarterly report containing data from April 1 through June 30 shall be submitted no later than July 15;

(3) The quarterly report containing data from July 1 through September 30 shall be submitted no later than October 15; and

(4) The quarterly report containing data from October 1 through December 31 shall be submitted no later than January 15.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.6(89GA, HF2521) Complaints.

55.6(1) *Complaints.*

a. The process for filing a complaint is as follows:

(1) Any person with a concern regarding the operation of a health care employment agency may file a complaint at the department's physical location, complaint hotline, or website, as follows:

Physical address:	Department of Inspections and Appeals Complaint/Incident Unit Lucas State Office Building, Third Floor 321 E. 12th Street Des Moines, Iowa 50319-0083
Complaint hotline:	1-877-686-0027
Website address:	dia.iowa.gov

(2) When the nature of the complaint is outside the department's authority, the department shall forward the complaint to the appropriate investigatory entity.

(3) If other state agencies receive a complaint that relates to a health care employment agency, the agencies shall forward the complaint to the department.

b. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the health care employment agency or is without a reasonable basis. If the department, upon preliminary investigation, determines that the complaint is intended to harass or is without a reasonable basis, the department may dismiss the complaint.

55.6(2) *Content of complaint reports.* The complaint shall include as much of the following information as possible: the complainant's name, address, and telephone number; the complainant's relationship to the health care employment agency; and the reason for the complaint. The complainant's name shall be confidential information and shall not be released by the department.

55.6(3) *Time frames for investigation of complaints.* Upon receipt of a complaint made in accordance with this rule, the department shall make a preliminary investigation of the complaint to determine if probable cause exists to further investigate the complaint. If probable cause exists, an investigation of the health care employment agency shall be initiated within 45 working days.

55.6(4) *Standard for determining whether a complaint is substantiated.* The department shall apply a preponderance of the evidence standard in determining whether a complaint is substantiated.

55.6(5) *Notification of the health care employment agency or alleged health care employment agency of results of investigation.* The department shall notify the health care employment agency or alleged health care employment agency, in writing, of the final report of the complaint investigation.

55.6(6) *Notification of the complainant of results of investigation.* The complainant, if known, shall be notified of the final findings of a complaint investigation. The complainant, if known, shall also be notified if the department determines not to further investigate after the preliminary investigation and shall receive an explanation of the department's decision.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.7(89GA, HF2521) Investigations.

55.7(1) *Initiation of investigations.* Investigations may be initiated because of a complaint or other information received by the department or upon referral from other agencies. If the department determines there is probable cause to believe that a health care employment agency is an unregistered health care employment agency or that a registered health care employment agency is not in compliance with state, federal, or local statutes or rules, an investigation shall be initiated.

55.7(2) *Evaluation of allegations and referral to other agencies.* If an investigation is initiated, the department shall evaluate the allegations to determine whether the allegations should also be referred to other local, state, or federal agencies. If the department believes a criminal violation has occurred or is occurring, it shall notify the appropriate law enforcement entities.

55.7(3) *Access to records.* An inspector of the department may enter a health care employment agency without a warrant and may examine and copy all records and items pertaining to the investigation unless the record or item is protected by some other legal privilege.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.8(89GA, HF2521) Penalties. A health care employment agency that violates Iowa Code sections 135Q.2(1) through 135Q.2(3) as enacted by 2022 Iowa Acts, House File 2521, or rule 481—55.3(89GA, HF2521) shall be subject to the associated penalties under Iowa Code section 135Q.2(5) as enacted by 2022 Iowa Acts, House File 2521.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.9(89GA, HF2521) Public and confidential information.

55.9(1) *Public disclosure.* The following records are open and available for inspection:

- a. Registration forms and accompanying materials;
- b. Final findings of the department's investigations;
- c. Official notices of penalties; and
- d. Any records required to be submitted to the department by the health care employment agency pursuant to Iowa Code section 135Q.2(4) as enacted by 2022 Iowa Acts, House File 2521, and subrule 55.5(3) (quarterly reporting to the department).

55.9(2) *Confidential information.* Confidential information includes the following:

a. Information obtained by the department that does not comprise a final finding resulting from a complaint investigation. Investigation information which does not comprise a final finding may be made public in a contested case proceeding concerning the department's final findings, including the imposition of a monetary penalty or the denial or revocation of registration.

b. Names and identifying information of all complainants.

55.9(3) *Redaction of confidential information.* If a record normally open for inspection contains confidential information, the confidential information shall be redacted prior to an agency's providing the record for inspection.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

These rules are intended to implement 2022 Iowa Acts, House File 2521.

[Filed ARC 6711C (Notice ARC 6571C, IAB 10/5/22), IAB 11/30/22, effective 1/4/23]

CHAPTER 56
FINING AND CITATIONS
[Prior to 7/15/87, Health Department[470] Ch 56]

481—56.1(135C) Authority for citations. Pursuant to the authority vested in the director of the department of inspections and appeals to issue citations and assess penalties for violations of the statutes or departmental rules relating to the health care facilities, the following rules indicate the method by which citations may be issued when a particular statute or departmental rule is violated by a facility.

481—56.2(135C) Classification of violations—classes. There are three classifications for violations of statutes or departmental rules which may result in the issuance of a citation by the director of inspections and appeals and the assessment of a penalty therefor.

56.2(1) Class I. A class I violation is one which presents an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility in which the violation occurs. A physical condition or one or more practices in a facility may constitute a class I violation;

56.2(2) Class II. A class II violation is one that has a direct or immediate relationship to the health, safety, or security of residents of a health care facility, but which presents no imminent danger nor substantial probability of death or physical harm to them. A physical condition or one or more practices within a facility, including either physical abuse of any resident or failure to treat any resident with consideration, respect, and full recognition of the resident's dignity and individuality, in violation of a specific rule adopted by the department, may constitute a class II violation;

56.2(3) Class III. A class III violation is one which is not classifiable in the department's rules nor classifiable under the criteria stated in those rules as a class I or class II violation.

481—56.3(135C) Fines. Citations which are issued by the director of the department of inspections and appeals for violations of the statutes or rules relating to health care facilities will subject the facility to the following penalties.

56.3(1) Citation for a class I violation. The penalty shall not be less than \$2,000 nor more than \$10,000. The penalty for a class I violation shall be doubled when the violation is due to an intentional act by the facility in violation of a provision of Iowa Code chapter 135C or a rule adopted pursuant thereto.

56.3(2) Citation for a class II violation. The penalty shall not be less than \$100 nor more than \$500. Using the criteria established in paragraph 56.3(2)“a,” the director of the department of inspections and appeals may, upon written request, waive the penalty if the class II violation is corrected within the time specified in the citation. The director shall not waive penalties related to the items listed in subrule 56.3(4).

a. Criteria for waiving the penalty for a class II violation. The director shall consider the following criteria, among others, when deciding whether to grant a waiver of a class II penalty.

(1) The past history of the facility within the last 24 months of the violation as it relates to the nature of the violation;

(2) The rights of residents to make informed decisions with their doctor(s) and family/legal representative(s); and
(3) The financial hardship the fine will cause the facility.

b. Process for requesting a waiver of the penalty for a class II violation.

(1) A facility shall submit documentation that supports the waiver request.

(2) If the facility has requested a waiver based on financial hardship, the facility must provide proof of the hardship for the individual facility, along with the parent corporation, if any. Supporting documentation shall, at minimum, include the facility's, and the parent corporation's, if any, most recent profit and loss statement and balance sheet.

(3) Requests for a waiver shall be submitted within ten working days of receipt by the facility of the notice that the violation has been corrected.

(4) The department shall make a decision on the waiver request or request additional information, if necessary, within ten working days of receipt of a waiver request and shall notify the facility in writing of the department's determination by personal service, by electronic mail, or by certified mail. If additional information is requested, such information shall be provided by the facility within five working days. If additional information is necessary, the department shall make a decision on the waiver request within ten working days of receipt of the additional information requested by the department.

(5) If the waiver request is granted and the facility has paid the penalty, the facility shall be refunded the amount of the penalty paid that was subject to the approved waiver request.

c. Denial of penalty waiver request for a class II violation. The director's decision to deny a waiver request is not subject to appeal. The underlying citation or state statement of deficiencies is eligible for appeal.

56.3(3) *Citation for a class III violation.* No penalty shall be assessed for a class III violation except as provided in rule 481—56.5(135C).

56.3(4) *Self-identification and correction of a class II or class III violation prior to the on-site inspection.*

a. Self-identification and correction. If a facility self-identifies a deficient practice prior to the on-site visit inspection, there has been no complaint filed with the department related to that specific deficient practice, and the facility corrects such practice prior to an inspection, no citation shall be issued or fine assessed for class II or III violations except as identified in Iowa Code section 135C.36(5).

b. Process for documenting self-identification. If, during the inspection, an area of concern is identified to the facility that was self-identified and corrected by the facility prior to the inspection, no complaint has been filed, and the violation does not fall in the exemptions listed in Iowa Code section 135C.36(5), the facility shall complete a "Self-Identification and Correction Form" and submit it to the inspector(s) prior to the conclusion of the inspection, or to the department within two working days of the exit interview via email, facsimile, or overnight courier. The documentation shall include:

- (1) The nature of the problem;
- (2) The date the problem was identified;
- (3) Who identified the problem, i.e., family, resident, staff, physician, pharmacist;
- (4) Action steps taken to correct the problem;
- (5) The date the facility determined correction was completed; and
- (6) All documentation that substantiates the above information.

56.3(5) *State penalty dismissed if the corresponding federal deficiency or citation is dismissed or removed.* Any state penalty, including a fine or citation, issued as a result of a joint state and federal survey and certification process shall be dismissed if the corresponding federal deficiency or citation is dismissed or removed.

a. If the federal deficiency is dismissed or removed during the federal informal dispute resolution process, the department shall remove any corresponding state fine, citation or deficiency within 20 working days of issuance of the decision.

b. If the federal deficiency is dismissed or removed at the conclusion of the federal administrative hearing process, the facility shall submit to the department a copy of the decision, along with a written request for the removal of the corresponding state fine, citation, or deficiency.

c. Any state penalty, including a fine or citation, shall be retained or reinstated if the federal deficiency is retained or reinstated.

56.3(6) *Reduction of fine amount by 35 percent.* If a facility has been assessed a penalty, does not request a formal hearing pursuant to Iowa Code section 135C.43 and rule 481—56.17(135C), or withdraws its request for a formal hearing within 30 days of the date that the penalty was assessed, and the penalty is paid within 30 days of receipt of notice or service, the amount of the civil penalty shall be reduced by 35 percent.

[ARC 8433B, IAB 12/30/09, effective 2/3/10; ARC 2158C, IAB 9/30/15, effective 11/4/15; ARC 7005C, IAB 5/3/23, effective 6/7/23]

481—56.4(135C) Time for compliance. Citations which are issued by the director of the department of inspections and appeals for violations of the statutes or rules related to health care facilities shall specify the length of time permitted for the violation to be abated or eliminated, as follows:

56.4(1) *Citation for a class I violation:* The violation shall be abated or eliminated immediately, unless the department determines that a stated period of time, specified in the citation, is required to correct the violation;

56.4(2) *Citation for a class II violation:* The violation shall be corrected within a stated period of time determined by the department and specified in the citation. The stated period of time specified in the citation may subsequently be modified by the department for good cause shown;

56.4(3) *Citation for a class III violation:* The violation shall be corrected within a reasonable time specified by the department in the citation.

481—56.5(135C) Failure to correct a violation within the time specified—penalty. Failure to correct any class of violation within the time specified in the citation, unless the licensee shows that the failure was due to circumstances beyond the licensee's control, shall subject the facility to a further penalty of \$50 for each day that the violation continues after the time specified for correction.

481—56.6(135C) Treble and double fines.

56.6(1) *Treble fines for repeated violations.* The director of the department of inspections and appeals shall treble the penalties specified in rule 481—56.3(135C) for any second or subsequent class I or class II violation occurring within any 12-month period, if a citation was issued for the same class I or class II violation occurring within that period and a penalty was assessed therefor.

56.6(2) *Double fines for intentional class I violations.* The director of the department of inspections and appeals shall double the penalties specified in subrule 56.3(1) when the violation is due to an intentional act by the facility in violation of a provision of Iowa Code chapter 135C or rule adopted pursuant thereto.

a. For purposes of this subrule, “intentional” means doing an act voluntarily, not by mistake or accident, and doing the act with a specific purpose in mind.

b. The facts and circumstances surrounding the act shall be considered when determining whether the act was done intentionally.

c. It is assumed that a person intends the natural results of the person’s act(s).

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

481—56.7(135C) Notation of classes of violations. All rules relating to health care facilities, other than those which are informational in character, shall be followed by a notation at the end of each rule, or pertinent part thereof. This notation shall consist of a Roman numeral or numerals in parentheses. These Roman numerals refer to the class (either class I, class II, or class III) of violation which may be cited by the director of the department of inspections and appeals when that rule or a part of that rule carrying the notation is violated by the facility.

[ARC 3390C, IAB 10/11/17, effective 11/15/17]

481—56.8(135C) Notation for more than one class of violation. In those instances where a particular rule, or part of a rule is followed by a notation consisting of more than one Roman numeral in parentheses, at the discretion of the director of the department of inspections and appeals, the director may issue a citation for a violation of that rule, or part thereof, designating any one of the multiple classes of violations specified in the notation.

481—56.9(135C) Factors determining selection of class of violation. In determining which class of violation will be designated in the citation, where more than one class is specified in the notation following the rule, the director of the department of inspections and appeals shall consider evidence of the circumstances surrounding the violation, including, but not limited to, the following factors:

56.9(1) The frequency and length of time the violation occurred, i.e., whether the violation was an isolated or a widespread occurrence, practice, or condition;

56.9(2) The past history of the facility within 24 months of the violation as it relates to the nature of the violation;

56.9(3) The culpability of the facility as it relates to the reasons the violation occurred;

56.9(4) The extent of any harm to the residents or the effect on the health, safety, or security of the residents which resulted from the violation;

56.9(5) The relationship of the violation to any other types of violations which have occurred in the facility;

56.9(6) The actions of the facility after the occurrence of the violation, including when corrective measures, if any, were implemented and whether the facility notified the director as required;

56.9(7) The accuracy and extent of records kept by the facility which relate to the violation, and the availability of such records to the department;

56.9(8) The rights of residents to make informed decisions with their doctor(s) and family/legal representative(s); and

56.9(9) Whether the facility made a good-faith effort to address a high-risk resident’s specific needs, and whether the evidence substantiates this effort.

481—56.10(135C) Factors determining imposition of citation and fine.

56.10(1) The director of the department of inspections and appeals may consider evidence of the circumstances surrounding the violation including, but not limited to, those factors set out in rule 481—56.9(135C) when:

a. Determining whether a violation will be subject to a fine or citation; and

b. Determining the monetary amount of the penalty to be specified in the citation, when such a fine is authorized to be levied for a particular class of violation.

56.10(2) If it is determined that a violation shall be cited as a class I violation, the following chart shall be used by the department when calculating the fine amount. The amount of the fine shall be the sum total of the calculated

fine amounts for each factor to be considered. With the exception of fines trebled pursuant to Iowa Code section 135C.44 or doubled pursuant to Iowa Code section 135C.44A, the total fine imposed for a single class I violation shall not be less than \$2,000 nor more than \$10,000.

Class I Fine Calculation

Factors to Be Considered	Associated Fine and Related Explanation	Calculated Fine
Frequency and length of time the violation occurred, as specified in subrule 56.9(1)	Duration of violation: • If 30 days or less, add \$250. • If more than 30 days, add \$500. Breadth of violation: • One resident impacted, add \$250. • More than one resident impacted, add \$500.	\$
Past history of the facility, as specified in subrule 56.9(2)	Same violation of rule or related rule cited within the past 24 months, add \$500.	\$
Culpability of the facility, as specified in subrule 56.9(3)	Degree of culpability of facility as it relates to the reason the violation occurred, add \$0 to \$500. ¹	\$
Extent of any harm to a resident, as specified in subrule 56.9(4)	• Death, imminent danger or substantial probability of death, add \$6,000 to \$8,500. • Moderate to severe physical harm, imminent danger or substantial probability of moderate to severe physical harm, add \$3,000 to \$7,500. • Minor to moderate physical harm, imminent danger or substantial probability of minor to moderate physical harm, add \$1,000 to \$3,000.	\$
Relationship of the violation to any other types of violations, as specified in subrule 56.9(5)	• One or more related class II or class III violations cited, add \$250. • One or more related class I violations cited, add \$500. ²	\$
Actions of the facility after the occurrence of the violation, as specified in subrule 56.9(6)	• Good-faith corrective actions taken although violation not appropriately corrected, add \$250. • Corrective actions not taken or the facility failed to notify the director as required, add \$500.	\$
Accuracy and extent of records kept by the facility, as specified in subrule 56.9(7)	Records maintained by the facility contain pertinent inaccuracies or omissions or were unavailable to the department, add \$500.	\$
Rights of the residents to make informed decisions, as specified in subrule 56.9(8)	Residents' rights to make informed decisions were not respected, add \$500.	\$
Whether the facility made a good-faith effort to address a high-risk resident's needs, as specified in subrule 56.9(9)	Evidence indicates the facility did not make a good-faith effort to address a high-risk resident's specific needs, add \$500.	\$
Additional circumstances surrounding the violation, as specified in rule 481—56.9(135C)	Cite any additional circumstances considered and any associated fine amount.	\$
Total Calculated Class I Fine Amount		\$

¹ For example, the culpability of a facility may range from acts or omissions that are inadvertent or negligent to acts or omissions that intentionally disregard known or obvious risks and make it highly probable that the outcome would cause harm to a resident.

² For example, a violation related to pressure sores could be correlated to a violation related to the use of restraints or failure to provide incontinent care.

[ARC 3390C, IAB 10/11/17, effective 11/15/17]

481—56.11(135C) Class I violation not specified in the rules. The director of the department of inspections and appeals may issue a citation for a class I violation when a physical condition or one or more practices exist in a facility which are not in violation of a specific statute or rule, but which constitute an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility.

481—56.12(135C) Class I violation as a result of multiple lesser violations. The director of the department of inspections and appeals may issue a citation for a class I violation when a physical condition or one or more practices exist in a facility which are a result of multiple lesser violations of the statutes or rules, but which taken as a whole constitute an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility.

481—56.13(135C) Form of citations. Each citation issued by the director of the department of inspections and appeals shall contain the following information:

56.13(1) A description of the nature of the violation;

56.13(2) A statement of the Code section or subsection or the rule or standard violated. (In the case of class I violations as described in 481—56.11(135C), a statement of the specific physical condition or one or more practices may be made in lieu of this statement.);

56.13(3) A statement of the classification of the violation, as specified in 481—56.2(135C);

56.13(4) When appropriate, a statement of the period of time allowed for correction of the violation, which shall in each case be the shortest period of time the department deems feasible; and

56.13(5) A statement that the fine may be reduced by 35 percent pursuant to Iowa Code section 135C.43A and subrule 56.3(6).

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

481—56.14(135C) Licensee's response to a citation. Within 20 business days after service of a citation, the facility shall respond in the following manner, according to the type of citation issued.

56.14(1) If the facility does not desire to seek an informal conference or contest the citation, the facility shall remit to the department of inspections and appeals the amount specified by the department of inspections and appeals in the citation unless:

a. The violation was issued in conjunction with a federal civil money penalty, and the department holds the fine issued pursuant to this chapter in abeyance pursuant to Iowa Code section 249A.57, or

b. The class II violation for which the penalty was imposed has been waived pursuant to subrule 56.3(2).

56.14(2) For each class II or class III violation, the facility shall send a written response to the department of inspections and appeals, acknowledging that the citation has been received and stating that the violation will be corrected within the specified period of time allowed by the citation.

56.14(3) If the facility desires to contest a citation for a class I, class II or class III violation, the facility shall notify the department of inspections and appeals in writing that the facility desires to contest such citation and shall do one of the following:

a. Request an informal conference with an independent reviewer pursuant to rule 481—56.15(135C); or

b. Request a contested case hearing in the manner provided by Iowa Code chapter 17A for contested cases.

[ARC 8433B, IAB 12/30/09, effective 2/3/10; ARC 1047C, IAB 10/2/13, effective 1/1/14; ARC 2158C, IAB 9/30/15, effective 11/4/15]

481—56.15(135C) Informal conference. An informal conference will be held concurrently with any informal dispute resolution held pursuant to 42 CFR Section 488.331 for those health care facilities certified under Medicare or the medical assistance program.

56.15(1) Definition. For purposes of these rules, “independent reviewer” means an attorney licensed in the state of Iowa who is not currently employed by the department, has not been employed by the department in the past eight years, and has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.

56.15(2) Request for informal conference. The request for an informal conference must be in writing, addressed to the compliance officer and include the following:

a. Identification of the citation(s) being disputed;

b. The type of informal conference requested: face-to-face or telephone conference; and

c. A request for surveyor worksheets for the citation(s) being disputed, if desired.

56.15(3) Submission of documentation. Within the same ten-day period required for submission of a plan of correction pursuant to 481—subrule 50.10(7), the facility shall submit the following:

a. The names of those who will be attending the informal conference, including legal counsel; and

b. Documentation supporting the facility's position. The facility must highlight or use some other means to identify written information pertinent to the disputed deficiency(ies). Supporting documentation that is not submitted within the required time frame will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. “Good cause” means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the facility has shown good cause, the independent reviewer shall consider what circumstances kept the facility from submitting the supporting documentation within the required time frame.

56.15(4) Face-to-face or telephone conference. A face-to-face or telephone conference, if requested, will be scheduled to occur within ten business days of the receipt by the department of the written request, all supporting documentation, and the plan of correction required by 481—subrule 50.10(7).

a. Failure to submit supporting documentation will not delay scheduling.

b. The conference will be scheduled for one hour to allow the facility to informally present information and explanation concerning the contested deficiencies. Due to the confidential nature of the conference, attendance may be limited.

c. If additional information is requested during the informal conference, the facility will have two business days to deliver the additional materials to the department.

d. When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the facility may be given one opportunity to reschedule the face-to-face conference.

56.15(5) Results. The results of the informal conference will generally be sent to the facility within ten business days after the date of the informal conference or, if additional information is requested, within ten business days after the department's receipt of the additional information.

a. The independent reviewer may affirm or may modify or dismiss the citation. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the citation.

b. The department will issue an amended (changes in factual content) or corrected (correction of typographical/data errors) citation if changes result from the informal conference.

c. The facility must submit to the department a new plan of correction for the amended or corrected citation within ten calendar days from the date of the letter conveying the results of the informal conference.

[ARC 8433B, IAB 12/30/09, effective 2/3/10; ARC 1047C, IAB 10/2/13, effective 1/1/14; ARC 2158C, IAB 9/30/15, effective 11/4/15]

481—56.16(135C) Procedure for facility after informal conference. After the conclusion of an informal conference requested by the licensee and provided pursuant to 56.14(3):

56.16(1) If the facility does not desire to further contest an affirmed or modified citation for a class I, class II or class III violation, the facility shall, within five business days after the informal conference, or within five business days after receipt of the written decision and explanation of the independent reviewer, whichever occurs later, comply with the provisions of subrule 56.14(1).

56.16(2) If the facility does desire to further contest an affirmed or modified citation for a class I, class II or class III violation, the facility shall, within five business days after receipt of the written explanation of the independent reviewer, notify the department of inspections and appeals in writing of the facility's intent to formally contest the citation.

[ARC 8433B, IAB 12/30/09, effective 2/3/10; ARC 1047C, IAB 10/2/13, effective 1/1/14; ARC 2158C, IAB 9/30/15, effective 11/4/15]

481—56.17(135C) Formal contest. The procedures for contested cases, as set out in Iowa Code chapter 17A, and the rules adopted by the department of inspections and appeals shall be followed in all cases where proper notice has been made to the department of inspections and appeals of the intent to formally contest any citation.

These rules are intended to implement Iowa Code chapters 10A and 135C.

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]¹

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¹ Effective date of Ch 56 delayed by the Administrative Rules Review Committee until 12/6/76, pursuant to Iowa Code section 17A.4 as amended by 66 GA, SF 1288, section 2, to allow further time to study and examine the rules.

² See IAB Inspections and Appeals Department.

CHAPTER 57
RESIDENTIAL CARE FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 57]

481—57.1(135C) Definitions. The following definitions apply to this chapter and to 481—Chapter 62. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

“Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting and ambulation.

“Administrator” means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such person has an ownership interest in the facility, and whether or not the functions and duties are shared with one or more other persons.

“Ambulatory” means the condition of a person who immediately and without the aid of another person is physically and 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 of the building.

“Board” means the regular provision of meals.

“Change of ownership” means the purchase, transfer, assignment, or lease of a licensed residential care facility.

“Communicable disease” means a disease caused by the presence within a person’s body of a virus or microbial agent which may be transmitted either directly or indirectly to other persons.

“Department” means the department of inspections and appeals.

“Distinct part” means a clearly identifiable area or section containing contiguous rooms within a health care facility.

“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 the resident’s needs.

“Legal representative” means the resident’s guardian or conservator if one has been appointed or the resident’s power of attorney.

“Mechanical restraint” means restriction by the use of a mechanical device of a resident’s mobility or ability to use the hands, arms or legs.

“Medication” means any drug, including over-the-counter substances, ordered and administered under the direction of the primary care provider.

“Nonambulatory” means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“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 eating, and supervision over medications which can be self-administered.

“Physical restraint” means direct physical contact on the part of a staff person to control a resident’s physical activity for the resident’s own protection or for the protection of others.

“Primary care provider” means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program of care” means all services being provided for a resident in a health care facility.

“Prone restraint” means a restraint in which a resident is in a face-down position against the floor or another surface.

“Rate” means the daily fee that is charged for all residents equally and that includes the cost of all minimum services required in these rules and regulations.

“Records” includes electronic records.

“Responsible party” means the person who signs or cosigns the residency agreement required in rule 481—57.15(135C) or the resident’s legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident’s residency agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“*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 1753C, IAB 12/10/14, effective 1/14/15; ARC 3737C, IAB 4/11/18, effective 5/16/18; ARC 3738C, IAB 4/11/18, effective 5/16/18]

481—57.2(135C,17A) Waiver. A waiver from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver will be granted or denied by the director within 120 calendar days of receipt.

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—57.3(135C) Application for licensure.

57.3(1) Application and licensing—new facility or change of ownership. In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility or for a residential care facility when a change of ownership is contemplated, the applicant must:

- a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.
- b. Meet all of the rules, regulations, and standards contained in 481—Chapters 50, 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.
- c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 57.3(2).
- d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.
- 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. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

57.3(2) Résumé of care. The résumé of care shall describe the following:

- a. Purpose of the facility;
- b. Criteria for admission to the facility;
- c. Ownership of the facility;
- d. Composition and responsibilities of the governing board;
- e. Qualifications and responsibilities of the administrator;
- f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;
- g. Dental services provided to residents and available in the area;
- h. Nursing services provided to residents, if applicable;
- i. Personal services provided to residents, including supervision of or assistance with activities of daily living;
- j. Activity program;
- k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;
- l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;
- m. Housekeeping;
- n. Laundry;
- o. Physical plant; and
- p. Staffing provided to meet residents’ needs.

57.3(3) Renewal application. In order to obtain a renewal of the residential care facility license, the applicant must submit the following:

- a. The completed application form 30 days prior to the annual license renewal date of the residential care facility license;
- b. The statutory license fee for a residential care facility;
- c. An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;
- d. Changes to the résumé of care, if any; and
- e. Changes to the current residency agreement, if any.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.4(135C) Issuance of license. Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.5(135C) Licenses for distinct parts.

57.5(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, contain contiguous rooms, and provide separate categories of care and services.

57.5(2) The following requirements shall be met for 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. 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.

This rule is intended to implement Iowa Code sections 135C.6(2) and 135C.14.

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.6(135C) Special classifications.

57.6(1) Memory care.

a. Designation and application. A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. “Memory care” in a residential care facility means the care of persons with early Alzheimer’s-type dementia or other disorders causing dementia. (I, II, III)

(1) Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

(2) Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

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

b. Résumé of care. A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

- (1) Describe the population to be served;
- (2) State the philosophy and objectives;
- (3) List criteria for transfer to and from the memory care unit or facility;
- (4) Include a copy of the floor plan;
- (5) List the titles of policies and procedures developed for the unit or facility;
- (6) Propose a staffing pattern;
- (7) Set out a plan for specialized staff training;
- (8) State visitor, volunteer, and safety policies;
- (9) Describe programs for activities, social services and families; and
- (10) Describe the interdisciplinary team and the role of each team member.

c. Policies and procedures. Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

(1) Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

(2) Safety, including a description of the actions required of staff in the event of a fire, natural disaster, emergency medical event 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 and explain the manner in which the effectiveness of the security system will be monitored. (II, III)

(3) Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

(4) Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

(5) The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

d. Assessment prior to transfer or admission. Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

e. Staff training. All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

(1) Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

(2) Training shall include the following topics: (II, III)

1. An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

2. Skills for communicating with persons with dementia;

3. Skills for communicating with family and friends of persons with dementia;

4. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

5. The importance of planned and spontaneous activities;

6. Skills in providing assistance with activities of daily living;

7. Skills in working with challenging residents;

8. Techniques for cueing, simplifying, and redirecting;

9. Staff support and stress reduction;

10. Medication management and nonpharmacological interventions.

(3) Nursing staff, certified medication aides, medication managers, 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 memory care residents. The six-hour initial training required in subparagraph 57.6(1) "e"(1) shall count toward the required annual in-service training. (II, III)

f. Staffing. There shall be at least one staff person on a memory care unit at all times. (I, II, III)

g. Others living in the memory care unit. A resident not requiring memory care services may live in the memory care unit if the resident's spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident's legal representative consents in writing to the placement. (II, III)

h. Revocation, suspension or denial. The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

57.6(2) Residential care facility for persons with an intellectual disability (RCF/ID).

a. Definition. For purposes of this rule, the following term shall have the meaning indicated.

"Qualified intellectual disability professional" means a psychologist, physician, physician assistant, 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 has one year's experience working with persons with an intellectual disability.

b. Designation and application. A residential care facility may choose to care for persons with an intellectual disability in a distinct part of the facility or designate the entire residential care facility as a residential care facility for persons with an intellectual disability. Residents shall meet the level of care requirements for a residential care facility. (I, II, III)

(1) Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

(2) Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

c. Résumé of care. A résumé of care shall be submitted to the department for approval at least 30 days before a residential care facility for persons with an intellectual disability is opened. A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

- (1) Describe the population to be served;
- (2) Include a copy of the floor plan;
- (3) List the titles of policies and procedures developed for the unit or facility;
- (4) Set out a plan for specialized staff training;
- (5) State visitor, volunteer, and safety policies;
- (6) Describe programs for activities, social services and families; and
- (7) Describe the interdisciplinary team and the role of each team member.

d. Policies and procedures. Separate written policies and procedures shall be implemented in the residential care facility for persons with an intellectual disability and shall address the following:

(1) Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a residential care facility for persons with an intellectual disability. The policy shall require a primary diagnosis of an intellectual disability for admission. (II, III)

(2) Safety, including a description of the actions required of staff in the event of a fire, natural disaster, emergency medical event or catastrophic event. (II, III)

(3) Staffing requirements, including the minimum number, types and qualifications of staff in the facility in accordance with resident needs. (II, III)

(4) Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

(5) The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

e. Assessment prior to transfer or admission. Prior to the transfer or admission of a resident applicant to the facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

f. Administrator qualifications. In addition to meeting the requirements of subrule 57.10(1), the administrator of a residential care facility for persons with an intellectual disability shall have at least one year's documented experience in direct care or supervision of persons with an intellectual disability. An individual employed as an administrator on May 16, 2018, will be deemed to meet the requirements of this subrule.

g. In-service educational programming. The in-service educational programming required by paragraph 57.10(2) "c" shall include educational programming specific to serving persons with an intellectual disability.

h. Revocation, suspension or denial. The facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3) "b" and 135C.14.

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 3737C, IAB 4/11/18, effective 5/16/18; ARC 6974C, IAB 4/5/23, effective 5/10/23]

481—57.7(135C) General requirements.

57.7(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

57.7(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.7(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.7(4) The license shall expire one year after the date of issuance or as indicated on the license.

57.7(5) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility. (I, II, III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)

c. Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

57.7(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. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.8(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of the long-term care ombudsman and the Iowa department on aging. [ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.9(135C) Required notifications to the department. The department shall be notified:

57.9(1) Thirty days before any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

57.9(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

57.9(3) Thirty days before closure of the residential care facility; (III)

57.9(4) Within two weeks of any change in administrator; (III)

57.9(5) Ninety days before a change in the category of license; (III)

57.9(6) Thirty days before a change of ownership, the licensee shall:

a. Inform the department of the pending change of ownership; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.10(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 rules. (III)

57.10(1) Qualifications of an administrator:

a. The administrator shall be at least 21 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:

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. An individual employed as an administrator on January 14, 2015, will be deemed to meet the requirements of this subrule.

57.10(2) Duties of an administrator: The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Arrange for the heads of nursing, social services, dietary and activities to attend a minimum of ten contact hours of educational programs per year to increase skills and knowledge needed for their positions. The ten hours is in addition to the in-service requirements in paragraph 57.10(2) "c." (III)

c. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

(1) Infection control.

(2) Emergency preparedness (fire, tornado, flood, 911, etc.).

(3) Meal time procedures/dietary.

(4) Resident activities.

(5) Mental illness/behavior modification/crisis intervention.

(6) Resident safety/supervision.

- (7) Resident rights.
- (8) Medication education, to include administration, storage and drug interactions.
- (9) Resident service plans/programming/goals.

57.10(3) Administrator serving at more than one residential care facility. 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)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

- (1) Have at least one year of experience in a supervisory or direct care position in a residential care facility or in a facility for the intellectually disabled, mentally ill or developmentally disabled; (II, III)
- (2) Be knowledgeable of the operation of the facility; (II, III)
- (3) Have access to records concerned with the operation of the facility; (II, III)
- (4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)
- (5) Be at least 21 years of age; (III)
- (6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)
- (7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

57.10(4) Provisional administrator. 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 one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 57.10(3) "b."

57.10(5) Temporary absence of administrator.

a. In the temporary 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:

- (1) Be knowledgeable of the operation of the facility; (III)
- (2) Have access to records concerned with the operation of the facility; (III)
- (3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
- (4) Be at least 21 years of age; (III)
- (5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)
- (6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 57.10(4).

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.11(135C) Personnel.

57.11(1) Alcohol and drug use prohibited. No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

57.11(2) Job description. There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

57.11(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 2014 Iowa Acts, chapter 1040, 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)

57.11(4) Personnel record. A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address, social security number, date of birth, date of employment, position, experience and education, references, results of criminal record checks, child abuse checks and dependent adult abuse checks, and date of discharge or resignation. (III)

57.11(5) Supervision and staffing.

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be awake at all times while on duty. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

57.11(6) *Physical examination and screening.* Employees shall have a physical examination no longer than 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.11(7) *Orders for medications and treatments.* Orders for medications and treatments shall be correctly implemented by qualified personnel. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 2273C, IAB 12/9/15, effective 1/13/16]

481—57.12(135C) General policies. The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

57.12(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including, but not limited to the following: (III)

- a. Personnel; (III)
- b. Admission; (III)
- c. Evaluation services; (II, III)
- d. Programming and individual program plans; (II, III)
- e. Registered sex offender management; (II, III)
- f. Crisis intervention; (II, III)
- g. Discharge or transfer; (III)
- h. Medication management, including self-administration of medications and chemical restraints; (III)
- i. Resident property; (II, III)
- j. Resident finances; (II, III)
- k. Records; (III)
- l. Health and safety; (II, III)
- m. Nutrition; (III)
- n. Physical facilities and maintenance; (III)
- o. Resident rights; (II, III)
- p. Investigation and reporting of alleged dependent adult abuse; (II, III)
- q. Investigation and reporting of accidents or incidents; (II, III)
- r. Transportation of residents; (II, III)
- s. Resident supervision; (II, III)
- t. Smoking; (III)
- u. Visitors; (III)
- v. Disaster/emergency planning; (III) and
- w. Infection control. (III)

57.12(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

57.12(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

- a. Techniques for hand washing; (I, II, III)
- b. Techniques for handling of blood, body fluids, and body wastes; (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; (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) and

h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

57.12(4) Resident care techniques. The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

a. Intravenous or central line catheter; (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)

57.12(5) Emergency care. The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.13(135C) Admission, transfer and discharge.

57.13(1) General admission policies.

a. Residents shall be admitted to a residential care facility only on a written order signed by a primary care provider, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)

b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)

c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)

d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)

e. 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 the safe and orderly management of the residential care facility as required by these rules. (III)

f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)

g. 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 within the third degree of consanguinity to the person acting as guardian. (III)

57.13(2) Discharge or transfer.

a. Notification shall be made to the legal representative, primary care provider, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)

b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)

c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. "Appropriate record" includes the resident's face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

e. When a resident is transferred or discharged, the resident's unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.14(135C) Involuntary discharge or transfer.

57.14(1) Involuntary discharge or transfer permitted. A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

- b. The resident's welfare or that of other residents;
- c. Repeated refusal by the resident to participate in the resident's service plan;
- d. Due to action pursuant to Iowa Code chapter 229; or
- e. Nonpayment for the resident's stay, as described in the residency agreement for the resident's stay.

57.14(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

57.14(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may 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). Written documentation 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 include specific information to support this determination. (II)

57.14(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a. The notice 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, that reads as follows:

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 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. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or 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)

- b. The notice 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; the resident's primary care provider; 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 ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

- c. The notice required by paragraph 57.14(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

- (1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

- (2) 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, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

- d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

- a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)

- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that 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 7 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 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)

b. The notice 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; the resident's primary care provider; 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 ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(6) Hearing.

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 9. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal 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. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

57.14(7) Nonpayment. 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)

57.14(8) Discussion of involuntary transfer or discharge. Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge 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. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

57.14(9) *Transfer or discharge planning.*

a. 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)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 57.14(9) "*b*" does not apply if the discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6).

e. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

57.14(10) *Transfer upon revocation of license or voluntary closure.* 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 the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

57.14(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) 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 subparagraph 57.14(11) "*a*"(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 57.14(11) "*a*"(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 57.14(11) "*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, III)

d. If emergency relocation is required in order 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 that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. 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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—57.15(135C) Residency agreement.

57.15(1) Each residency agreement shall:

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) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) 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)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) 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; (II, III)

(2) Notification to the resident, or the 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. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of 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. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be 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, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement 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. (II, III)

57.15(2) Each party to the residency agreement shall receive a copy of the signed agreement. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.16(135C) Medical examinations.

57.16(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

57.16(2) Each resident admitted to a residential care facility shall have 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 primary care provider, 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 medical concerns, diet, 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)

57.16(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring physician intervention. (I, II, III)

57.16(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.17(135C) Records.

57.17(1) *Resident record.* The licensee shall keep a permanent record on every resident admitted to the residential care facility, and all entries in the permanent record shall be 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, if designated; (III)
- d. Primary care provider'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. Pharmacy name, telephone number, and address; (III)
- i. Mortuary name, telephone number, and address, if designated; (III)
- j. Physical examination and medical history; (III)
- k. Primary care provider's orders for the resident's level of care, medication, treatments, and diet. The orders shall be in writing and signed by the primary care provider quarterly; (III)
- l. A notation of visits to primary care provider and other professional services; (III)
- m. Documentation regarding services provided by other providers, including but not limited to home health agencies, hospice, day treatment and those providing medical, mental health and Medicaid waiver services; (III)
- n. Documentation of any adverse change in the resident's condition; (II, III)
- o. A notation describing the resident's condition on admission, transfer and discharge; (III)
- p. A copy of instructions given to the resident, legal representative or facility in the event of discharge or transfer; (III)
- q. In the event of a resident's death, notations of 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 the resident's family and primary care provider were notified of the resident's death; and (III)
- r. A notation of disposition of personal property and medications upon the resident's transfer, discharge or death. (III)

57.17(2) Confidentiality of resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive the information. (II)

- a. The facility shall limit access to any medical records to staff and professionals providing services to the resident. (II)
- b. The facility shall limit access to the resident's personal records, e.g., financial records and social services records, to staff and professionals providing the service to the resident. Only those personnel concerned with the financial affairs of the resident may have access to the financial records. (II)
- c. 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 primary care provider determines that 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)
- d. This subrule is not meant to preclude access to resident records by representatives of state and federal regulatory agencies.

57.17(3) Incident record.

- a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)
- b. Report of incidents shall be in detail on an incident report form. (III)
- c. The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)
- d. An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)
- e. An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)
- f. A copy of the incident report shall be kept on file in the facility. (II, III)

57.17(4) Retention of records.

- a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)
- b. Records shall be retained within the facility upon change of ownership. (III)
- c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

57.17(5) *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.18(135C) Resident care and personal services.

57.18(1) A complete change of bed linen shall be provided at least once a week and more often if necessary. (III)

57.18(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

57.18(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

57.18(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

57.18(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.19(135C) Drugs.

57.19(1) *Drug storage.*

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access. Monitoring of the storage, administration and documentation by the resident shall be carried out by a person who meets the requirements of subrule 57.19(3) and is responsible for administering medications. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)

(2) A bathroom shall not be used for drug storage. (III)

(3) The drug storage shall be kept locked when not in use. (III)

(4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)

(5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)

(6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)

(7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

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

(9) Inspection of drug storage shall be made by the administrator or designee 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, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

57.19(2) *Drug safeguards.*

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider'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 primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (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 resident's primary care provider, 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 possess any medications unless the primary care provider 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 primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period the resident will be on leave from the facility may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

57.19(3) Drug administration—authorized personnel.

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or shall have successfully completed a department-approved medication aide course and passed a department-approved medication aide challenge examination administered by an area community college. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

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. The person 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; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

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 57.19(3) “*d*” do not apply to this person. (III)

g. 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.

57.19(4) Drug administration.

a. 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. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, “injectable medications” does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident’s primary care provider as capable of injecting the resident’s own insulin may do so. Insulin may be administered pursuant to paragraph 57.19(4) “*b*” or as otherwise authorized by the resident’s primary care provider. (II, III) Authorization shall:

- (1) Be in writing,
- (2) Be maintained in the resident’s record,
- (3) Be renewed quarterly,
- (4) Include the name of the person authorized to administer the insulin,
- (5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident’s own medication if the primary care provider has certified in writing in the resident’s medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident’s medical record what the resident’s participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident’s primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident’s primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident’s use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) “*b*”(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) “*b*”(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 2643C, IAB 8/3/16, effective 9/7/16; see Delay note at end of chapter]

481—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

57.20(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident’s primary care provider shall be advised of the resident’s dental problems. (III)

57.20(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

57.20(4) Personal care staff shall assist the resident in carrying out the dentist’s recommendations. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.21(135C) Dietary.**57.21(1) *Dietary staffing.***

a. A minimum of one person directly responsible for food preparation shall successfully complete a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling. (III)

b. If the person is in the process of completing the food protection program in paragraph 57.21(1) "a," the requirement relating to the completion of a state-approved food protection program shall be considered to have been met.

c. In addition to the requirement of paragraph 57.21(1) "a," personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

57.21(2) *Nutrition and menu planning.*

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

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

(1) There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

(2) Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

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

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place 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 or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. The facility shall provide an alternative choice at scheduled meal times. (III)

57.21(3) *Dietary storage, food preparation, and service.*

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. 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 bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

57.21(4) *Sanitation in food preparation area.*

a. In facilities licensed for more than 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

b. There shall be written procedures established for cleaning all work and serving areas in facilities with more than 15 beds. (III)

c. A schedule for duties to be performed daily shall be posted in each food area. (III)

d. 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. (II, III)

e. 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)

f. 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 the linen is in sealed, leakproof containers. (III)

g. In facilities with more than 15 beds, a mechanical dishwasher is required. (III)

h. 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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.22(135C) Orientation and service plan.

57.22(1) *Orientation.* Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

57.22(2) *Initial service plan.* Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 57.22(3) is complete. (I, II, III)

57.22(3) *Service plan.* Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident, the resident's responsible party, the interdisciplinary team, and any organization that works with or serves the resident, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. 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 responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.23(135C) Resident activities program.

57.23(1) *Activities program.* Each residential care facility shall provide an organized resident activities program for the group and for the individual resident which shall include suitable activities. The facility shall offer at least two organized evening group activities per week and two organized weekend group activities per month. (III)

a. The activities 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 primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The activities program shall include measureable goals for each resident. (III)

c. The activities program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not required, to participate in activities. (III)

57.23(2) *Coordination of activities program.*

a. Each residential care facility with 15 or fewer beds shall designate a person to oversee the activities program, develop goals and monitor progress. (III)

b. Each residential care facility with more than 15 beds shall employ a person to direct the activities program. (III)

c. Staffing for the activities program shall be provided on the minimum basis of 45 minutes per resident per week. (II, III)

d. The activities coordinator shall have completed the activities coordinator orientation course approved by the department within six months of employment or have comparable training and experience as approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activities coordinator is absent during scheduled working hours. (III)

57.23(3) *Duties of activities coordinator.* The activities coordinator shall:

- a. Have access to all residents' records. (III)
- b. Coordinate all activities, including volunteer or auxiliary activities and religious services. (III)
- c. Keep all necessary records including:
 - (1) Attendance records; (III)
 - (2) Individual resident progress notes, recorded at least every three months; (III)
 - (3) Monthly calendars, prepared in advance, updated as necessary and maintained for one year. (III)
- d. Coordinate the activities program with all other services in the facility. (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. (III)
- b. Storage shall be provided for recreational equipment and supplies. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.24(135C) Residents' rights.

57.24(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

57.24(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

- a. Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)
- b. Ensure protection of the resident from any form of reprisal or intimidation; (II, III)
- c. Include designation of an employee responsible for handling grievances and recommendations; (II, III)
- d. Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and
- e. Include methods of recording grievances and actions taken. (II, III)

57.24(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

57.24(4) 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 the resident's admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

- a. The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff, and what is expected from residents. 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 the resident's admission. (II, III)

- 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 or hard of hearing, 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, III)

- 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 resident's 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. (II, III)

- 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, III)

- 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 hard-of-hearing, or blind residents of changes. (II, III)

57.24(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

57.24(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with impaired decision-making skills, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

57.24(7) 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)

57.24(8) 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 changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

57.24(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation Prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

57.24(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 5711C, IAB 6/16/21, effective 7/21/21]

481—57.25(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. (I, II)

57.25(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. (I, II)

57.25(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)

57.25(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)

57.25(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)

57.25(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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.26(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)

57.26(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)

57.26(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 primary care provider 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)

57.26(3) Decisions to restrict a visitor are reviewed and reevaluated:

a. Each time the medical orders are reviewed by the primary care provider;

b. At least quarterly by the facility's staff; or

c. At the resident's request. (II)

57.26(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

57.26(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

57.26(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

57.26(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or facility administrator for refusing permission. (II)

57.26(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 1753C, IAB 12/10/14, effective 1/14/15]

481—57.27(135C) Resident activities.

57.27(1) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

57.27(2) 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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.28(135C) Resident property.

57.28(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient to the resident and shall be updated at least annually. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

57.28(2) The 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 that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

57.28(3) Funds or properties received by the facility, belonging or due a resident, expendable for the resident's account, shall be trust funds. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.29(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. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

57.29(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

57.29(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

57.29(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. 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 resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

57.29(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent 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)

57.29(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

57.29(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 legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or the local law enforcement agency, as appropriate. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.30(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

57.30(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider is required for all work programs. (I, II)

57.30(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.31(135C) Family—shared rooms. Family members or spouses shall be permitted to share a room, if available, if requested by both parties, unless the primary care provider of one of the parties documents in the medical record specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.32(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

57.32(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

57.32(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

57.32(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

57.32(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

57.32(5) Staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 3737C, IAB 4/11/18, effective 5/16/18]

481—57.33(135C) Crisis intervention. If a facility utilizes physical restraints, the facility shall have written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, establish a mechanism for monitoring and controlling their use, and provide staff with proper training. (I, II, III)

57.33(1) Temporary physical restraint 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 programming; (I, II) and

c. No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

57.33(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

57.33(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

57.33(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

57.33(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

57.33(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)

b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)

c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

57.33(7) Residents shall not be kept behind locked doors. (I, II)

57.33(8) Mechanical restraint is prohibited. Staff persons who find themselves involved in the use of a mechanical restraint when responding to an emergency must take immediate steps to end the mechanical restraint. (I, II)

[ARC 1753C, IAB 12/10/14, effective 1/14/15; ARC 3738C, IAB 4/11/18, effective 5/16/18]

481—57.34(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. (I, II, III)

57.34(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.

57.34(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 prominently posted in a common area of the building. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

57.34(3) Resident safety.

a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)

b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)

d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall be supervised by staff as identified in the resident's service plan. (I, II, III)

e. Sufficient numbers of noncombustible trash containers with covers shall be available. (III)

f. Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

57.34(4) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.35(135C) Housekeeping.

57.35(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

57.35(2) Each resident room shall be cleaned on a routine schedule. (III)

57.35(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. (II, III)

57.35(4) A hallway or corridor shall not be used for storage of equipment. (II, III)

57.35(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

57.35(6) Clothing worn by personnel shall be clean and washable. (III)

57.35(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)

57.35(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)

57.35(9) Polishes used on floors shall provide a nonslip finish. (II, III)

57.35(10) Throw or scatter rugs shall have nonskid backing. (II, III)

57.35(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.36(135C) Maintenance.

57.36(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 with more than 15 beds, the maintenance program shall be established in writing and available for review by the department. (II, III)

57.36(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)

57.36(3) Window treatments and furniture shall be clean and in good repair. (II, III)

57.36(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. (II, III)

57.36(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)

57.36(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)

57.36(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)

57.36(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)

57.36(9) The facility shall be kept free of flies, other insects, and rodents. (II, III)

57.36(10) Janitor's closet.

a. Facilities shall be provided with storage for cleaning equipment and supplies. (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 more than 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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.37(135C) Laundry.

57.37(1) All soiled linens shall be collected and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

57.37(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

57.37(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

57.37(4) Residents' personal laundry shall be marked with an identification if comingled with other residents' personal laundry. (III)

57.37(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

57.37(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities with more than 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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.38(135C) Garbage and waste disposal.

57.38(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)

57.38(2) All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

57.38(3) All unlined containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.38(4) All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.39(135C) Supplies.

57.39(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. Adequate storage shall be provided for linens, pillows, and bedding. (III)

57.39(2) *Supplies, equipment and storage.*

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)

c. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

d. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.40(135C) Buildings, furnishings, and equipment.

57.40(1) *Buildings—general requirements.*

- a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)
- b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)
- c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

57.40(2) *Furnishings and equipment.*

- a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (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 as needed, except on furniture provided by the resident and the property of the resident. (III)

57.40(3) *Dining and living rooms.*

- a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)
- b. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)
- c. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

57.40(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 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 bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)
- f. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- g. 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 the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)
- h. There shall be no more than four residents per room. (III)

57.40(5) *Bath and toilet facilities.*

- a. All sinks shall have paper towel dispensers and an available supply of soap. (III)
- b. Toilet paper shall be readily available to residents. (III)

57.40(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

57.40(7) *Water supply.*

- a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)
- b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)
- c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
- d. Hot and cold running water under pressure shall be available in the facility. (II, III)
- e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.41(135C) Family and employee accommodations.

57.41(1) 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 the residents. (III)

57.41(2) In all 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 the residents. (III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.42(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.43(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. (I, II, III)

57.43(1) 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 57.43(2) “a” through “j.” (I, II, III)

57.43(2) 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.

57.43(3) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

57.43(4) 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)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

481—57.44(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. “Respite care services” does not include crisis stabilization services provided pursuant to 2014 Iowa Acts, chapter 1044 (to be codified at Iowa Code section 225C.19A). “Respite care individual” means a person receiving respite care services. 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. (II, III)

57.44(1) *Length of stay.* Respite care may be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay at the facility. (II, III)

57.44(2) *No separate license.* A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

57.44(3) *Involuntary termination of respite services.* The facility may terminate the respite services for a respite care individual. Rule 481—57.14(135C) shall not apply. The facility shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite services, including notification of the respite care individual’s family or legal representative. (II, III)

57.44(4) *Contract.* Pursuant to rule 481—57.15(135C), the facility shall have a contract with each resident in the facility. When an individual is there for respite care services, the contract shall specify the time period during which the individual 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 that respite care services may be involuntarily terminated. The contract shall meet other requirements under rule 481—57.15(135C), except the requirements under subrule 57.15(7). (II, III)

57.44(5) *Admission as a resident.*

- a. An individual being cared for under a respite care contract shall not be considered an admission to the facility.
- b. A respite care individual shall be included in the facility's census.
- c. The facility shall not enter into multiple 30-day contracts with an individual being cared for under a respite care contract in order to lengthen the individual's stay at the facility. (II, III)

d. If an individual being cared for under a respite care contract remains in the facility beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a resident in the facility. The facility shall follow all requirements for the individual's admission to the facility. (II, III)

57.44(6) *Level of care.* 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. (I, II, III)

57.44(7) *Reporting requirements.* The reporting requirements of rule 481—50.7(135C) shall apply to residents being cared for under a respite care contract. (I, II, III)

[ARC 1753C, IAB 12/10/14, effective 1/14/15]

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

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◇ 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.

⁴ September 7, 2016, effective date of 57.19(3) “d,” 62.15(2) “d,” and 63.18(3) “d” [ARC 2643C] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 5, 2016.

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.

“*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 if applicable to the facility.

“*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.

“*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.

“*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.

“*Primary care provider*” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“*Program of care*” means all services being provided for a resident in a health care facility.

“*Qualified intellectual disabilities professional*” means a psychologist, physician, physician assistant, 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; ARC 1398C, IAB 4/2/14, effective 5/7/14; ARC 1752C, IAB 12/10/14, effective 1/14/15; ARC 7033C, IAB 5/31/23, effective 7/5/23]

481—58.2(135C) Waivers. Waivers 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 a waiver 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 waiver will apply only to an individual nursing facility. Waivers will be reviewed at the discretion of the director of the department of inspections and appeals.

58.2(1) To request a waiver, the licensee must:

- a. Apply for a waiver in writing on a form provided by the department;
- b. Cite the rule or rules from which a waiver is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the waiver;
- e. Demonstrate that the requested waiver will not endanger the health, safety, or welfare of any resident.

58.2(2) Upon receipt of a request for a waiver, the director of inspections and appeals will:

- a. Examine the rule from which a waiver 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 waiver 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 waiver will be either granted or denied within 120 days of receipt.

[ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—58.3(135C) Application for licensure.

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 60 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 60 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.

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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)** A nursing facility shall not be licensed for more beds than have been approved by the health facilities council pursuant to Iowa Code chapter 135 or than the facility can accommodate pursuant to the minimum physical standards for nursing facilities as set forth in 481—Chapter 61.
- 58.4(6)** The facility shall post in a place readily accessible to residents, visitors, and persons inquiring about placement in the facility the results of the most recent survey of the facility. The facility shall maintain any surveys, certifications, and complaint investigations made respecting the facility during the three preceding years, and any plan of correction in effect with respect to the facility, available for any individual to review upon request. (III)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

481—58.5(135C) Notifications required by the department. The department shall be notified:

- 58.5(1)** Within 48 hours of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing requirements below those required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)
- 58.5(2)** Thirty days before 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 60 days before the sale, transfer, assignment, or lease is completed. (III)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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.

- a. The distance between the two facilities shall be no greater than 75 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.

- a. No facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 12 consecutive months.
- b. The facility shall notify the department in writing within 14 days of the administrator's appointment. The written notice shall include the estimated time frame for the appointment of the provisional administrator and the reason for the appointment of a provisional administrator. (III)
- c. The provisional administrator's appointment must be approved by the board of examiners for nursing home administrators. The approval shall be confirmed 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. The administrator shall not be absent from the facility for more than 3 months without approval of the department. (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 21 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)

[ARC 1398C, IAB 4/2/14, effective 5/7/14; ARC 2020C, IAB 6/10/15, effective 7/15/15; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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(5) Rescinded IAB 10/19/88, effective 11/23/88.

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 (CDC), U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at www.cdc.gov.

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. The infection control committee may be part of or the same as another quality assurance committee as long as the following standards are met: (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; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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)

Refer to guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, to determine (1), (2), (3) and (4).

d. 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)

e. 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)

f. The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

g. There shall be an organized ongoing in-service educational and training program planned in advance for all personnel in all departments. (II, III)

h. Nurse aides may be utilized in accordance with the requirements in 441—subrule 81.13(19) and rule 441—81.16(249A). Nurse aides who have received training other than the Iowa state-approved program must pass a competency evaluation approved by the department of inspections and appeals in accordance with 441—subrule 81.13(19) and rule 441—81.16(249A). Evidence of prior formal training 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. Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

b. 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 readily available to nurses. (III)

c. 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)

d. 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)

e. 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)

f. 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)

g. Facilities with 75 or more beds must employ a health service supervisor who is a registered nurse. (II)

h. There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II)

i. Physician's and other qualified health care practitioner'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 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; ARC 5421C, IAB 2/10/21, effective 3/17/21; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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. Residents have a right to retain and use personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents. (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)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 or other qualifying health care practitioner, 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 readily available to nursing staff. (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) Physician delegation of tasks. Each resident, including private pay residents, 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.

a. For a skilled nursing patient, the resident must be seen by a physician for the initial comprehensive visit. Additional visits are required at least once every 30 days for 90 days after admission and at least once every 60 days thereafter. After the initial comprehensive visit, alternate required visits may 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)

b. 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)

c. 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. (III)

d. 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. (III)

Table 1: Authority for non-physician practitioners to perform visits, sign orders, and sign certifications/recertifications when permitted by state law*

	Initial Comprehensive Visit/Orders	Other Required Visits ¹	Other Medically Necessary Visits and Orders ²	Certification/Recertification
Skilled Nursing Facilities				
Physician assistant, nurse practitioner and clinical nurse specialist employed by the facility	May not perform/May not sign	May perform alternate visits	May perform and sign	May not sign
Physician assistant, nurse practitioner and clinical nurse specialist not a facility employee	May not perform/May not sign	May perform alternate visits	May perform and sign	May sign subject to state requirements
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	Not applicable ⁺
Nurse practitioner, clinical nurse specialist, and physician assistant not a facility employee	May perform/May sign	May perform	May perform and sign	Not applicable ⁺

*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.

+ This requirement relates specifically to coverage of Part A Medicare stays, which can take place only in a Medicare-certified skilled nursing facility.

[ARC 1048C, IAB 10/2/13, effective 11/6/13; ARC 1398C, IAB 4/2/14, effective 5/7/14; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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. The record of the admission physical examination described in subrule 58.14(2). It shall include the resident's name, sex, age, pertinent medical history, current medical status, tuberculosis status, and any other information required to adequately assess the resident and whether the facility is able to meet the resident's needs; (III)
- d. Physician's certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)
- e. Orders for medication, treatment, and diet in writing and signed by an appropriate qualifying health care practitioner 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 last 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 or electronic 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)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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) Rescinded IAB 4/2/14, effective 5/7/14.

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.)

[ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.19(135C) Required nursing services for residents. The resident shall receive and the facility shall provide, as appropriate, 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)
 - (8) Sufficient fluid intake to maintain proper hydration and health; (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. Provision of the appropriate care and treatment of wounds, including pressure sores, to promote healing, prevent infection, and prevent new sores from developing; (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)
- [ARC 1398C, IAB 4/2/14, effective 5/7/14; ARC 2560C, IAB 6/8/16, effective 7/13/16]

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 and work at least 480 hours prior to the start of the medication aide course.

(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 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 medications received and dispensed in accordance with 42 CFR 483.45(b) (2) and federal interpretive guidelines. (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.

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 or the prescription drugs are stored in an automated medication distribution system (AMDS) in compliance with standards established by the Iowa board of pharmacy. (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. Prescription medications distributed from an AMDS shall follow any labeling standards established by the Iowa board of pharmacy. (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 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. (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. (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 be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA). In the case of a resident who has been certified by the resident's physician or physician assistant (PA) 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)

[ARC 1050C, IAB 10/2/13, effective 11/6/13; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 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)
- e. 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 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)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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)
- b. All diagnostic services shall be provided only on the written, signed order of a physician. (III)
- c. Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)
- d. Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)

- e. Copies of all diagnostic reports shall be requested by the facility and included in the resident's clinical record. (III)
- f. The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)
- g. Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)

58.23(3) Other services.

- a. The nursing facility shall assist residents to obtain such supportive services as requested by the physician. (III)
- b. Transportation arrangements shall be made when necessary. (III)
- c. 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 a service is contracted out, the contractor shall meet the same standard. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

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

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

58.24(2) Dietary staffing. The facility shall employ dietary staff in accordance with 42 CFR 483.60(a).

a. Reserved.

b. The supervisor shall have overall supervisory responsibility for dietetic services and shall be employed for a sufficient number of hours to complete management responsibilities that include:

- (1) Participating in regular conferences with the consultant dietitian, the administrator and other department heads; (III)
 - (2) Writing menus with consultation from the dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)
 - (3) Establishing and maintaining standards for food preparation and service; (II, III)
 - (4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)
 - (5) Supervising activities of dietary personnel; (II, III)
 - (6) Maintaining up-to-date records of residents identified by name, location and diet order; (III)
 - (7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (II, III)
 - (8) Keeping records of repairs of equipment in dietetic services. (III)
- c. A minimum of one person with supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program.

d. The facility shall employ sufficient supportive personnel to carry out the following functions:

- (1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)
 - (2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described in the Food Code as defined in Iowa Code section 137F.2; (II, III)
 - (3) Serving therapeutic diets as prescribed by the physician or other qualified health care practitioner, including a licensed dietitian if delegated by the physician and within the dietitian's scope of practice, and following the planned menu. (II, III)
- e. The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed in compliance with the Food and Drug Administration Food Code adopted pursuant to Iowa Code section 137F.2 and 481—Chapter 31. (II, III)
- f. If the dietetic service supervisor is not a licensed dietitian, a consultant dietitian is required. The consultant dietitian shall be licensed by the state of Iowa pursuant to Iowa Code chapter 152A.
- g. Consultants' visits shall be scheduled to be of sufficient duration and at a time convenient to:

(1) Record, in the resident's medical record, any observations, assessments and information pertinent to medical nutrition therapy; (I, II, III)

(2) Work with residents and staff on resident care plans; (III)

(3) Consult with the administrator and others on developing and implementing policies and procedures; (III)

(4) Write or approve general and therapeutic menus; (III)

(5) Work with the dietetic supervisor on developing procedures, recipes and other management tools; (III)

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

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

58.24(3) *Nutrition and menu planning.*

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

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

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

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

(2) Suitable, nourishing alternative meals and snacks must be provided to residents who want to eat at nontraditional times or outside of scheduled meal service times, consistent with the resident plan of care and 42 CFR 483.60(f) and federal interpretive guidelines. (II, III)

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

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

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

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

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

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

58.24(4) *Therapeutic diets and nutritional status.*

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

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

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

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

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

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

b. Foods shall be attractively served. (III)

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

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

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

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

a. Training program requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Working restrictions.

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

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

[ARC 2560C, IAB 6/8/16, effective 7/13/16; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 sufficient to meet the residents' activity needs. (II, III)

c. 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)

d. 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)

[ARC 7033C, IAB 5/31/23, effective 7/5/23; Editorial change: IAC Supplement 6/28/23]

481—58.27(135C) Certified volunteer long-term care ombudsman program. Rescinded ARC 7033C, IAB 5/31/23, effective 7/5/23.

481—58.28(135C) 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 protect against hazards from self, others, or elements in the environment. (I, II, III)
- f. Residents shall be protected against physical or environmental hazards to themselves. (I, II, III)

[ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.29(135C) 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)

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)

* Objection. For text of Objection, see IAC Supp., Part I, 9/7/77. For text of Filed rules, 470—Chapter 58, see IAC Supp. 10/5/77.

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. 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 as permitted in the governing Life Safety Code or in an emergency. In the event of emergency use, the facility shall provide notice to the state fire marshal's office within 24 hours. (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.

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 generally accepted infection control standards. (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. (III)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 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 or hard of hearing, 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 hard-of-hearing, 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, in part, 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 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; ARC 5711C, IAB 6/16/21, effective 7/21/21; ARC 7033C, IAB 5/31/23, effective 7/5/23]

481—58.40(135C) Involuntary discharge or transfer.

58.40(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a.* Medical reasons;
- b.* The resident's welfare or that of other residents;
- c.* Nonpayment for the resident's stay, as described in the contract for the resident's stay;
- d.* Due to action pursuant to Iowa Code chapter 229;
- e.* By reason of negative action by the Iowa department of human services; or
- f.* By reason of negative action by the quality improvement organization (QIO). (I, II, III)

58.40(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

58.40(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may 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). Written documentation 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 include specific information to support this determination. (II)

58.40(4) *Involuntary discharge or transfer prohibited—payment source.* 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 Iowa Code chapter 249A. (I, II)

58.40(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a.* The notice 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, that reads as follows: (II)

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 the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or 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.

b. The notice 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; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 58.40(5) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) 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, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7).

58.40(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows: (II)

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 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 the department's receipt of your request. 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 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.

b. The notice 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; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7).

58.40(7) Hearing.

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 9. The hearing shall be public unless the resident or resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal 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 office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the facility, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

g. 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 QIO, an appeal shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

58.40(8) Nonpayment. 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)

58.40(9) Discussion of involuntary transfer or discharge. Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge 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. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

58.40(10) Transfer or discharge planning.

a. 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)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 58.40(10) "b" does not apply if the discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

58.40(11) *Transfer upon revocation of license or voluntary closure.* 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 the voluntary closure of a facility, a period of 60 days must be allowed for an orderly transfer of residents to other facilities.

58.40(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

- (1) Resident's incompatibility with or disturbance to other roommates.
- (2) For the welfare of the resident or other residents of the facility.
- (3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, 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 that 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 (Medicaid) 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 subparagraph 58.40(12)"a"(5). (II)
- (2) As punishment or behavior modification, except as specified in subparagraph 58.40(12)"a"(1). (II)
- (3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 58.40(12)"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 in order 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 that necessitates emergency relocation, and such notification shall be documented. (II)

e. 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)

[ARC 1752C, IAB 12/10/14, effective 1/14/15; ARC 3523C, IAB 12/20/17, effective 1/24/18; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 certified volunteer long-term care ombudsman and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

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 acknowledge 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, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. 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. Divided doors shall be of the type that when the upper half is closed the lower section shall close. (II)
- k. Methods of restraint shall permit rapid removal of the resident in the event of fire or other emergency. (I, II)
- l. 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) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

58.43(10) and 58.43(11) Rescinded IAB 12/11/13, effective 1/15/14.

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; ARC 1204C, IAB 12/11/13, effective 1/15/14; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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. (II)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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. Residents may perform services for the facility if such services are performed in accordance with 42 CFR 483.10(f)(9). (II)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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) Residents shall be permitted to receive visitors in accordance with 42 CFR 483.10(f)(4) and the federal interpretive guidelines. A particular visitor may be restricted by the facility if 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(2) 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(3) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

58.47(4) Telephones shall be available and accessible for residents to make and receive calls with privacy in accordance with 42 CFR 483.10(g)(6) and (7). Residents who need help shall be assisted in using the telephone. (II)

58.47(5) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

58.47(6) 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(7) 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; ARC 7033C, IAB 5/31/23, effective 7/5/23]

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)

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

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) 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(3) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

58.49(4) 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)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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. (II)

58.50(3) Family members shall be permitted to share a room, if available, if requested by both parties. (II)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

481—58.51(135C) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician. Each resident shall have the right to choose the resident's Medicare prescription drug benefit plan (Part D) pursuant to Section 1860D of the Social Security Act, and the facility shall utilize a pharmacy(ies) that recognizes the Part D plans chosen by that facility's Medicare beneficiaries. Each resident shall have free choice of pharmacy as to medications purchased by the resident outside of Part D plan coverage, although 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)

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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. Rescinded ARC 7033C, IAB 5/31/23, effective 7/5/23.

481—58.54(135C) 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 nursing facility 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.

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 42 CFR 483.15, 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.

[ARC 7033C, IAB 5/31/23, effective 7/5/23]

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 12/30/09, effective 2/3/10]

These rules are intended to implement Iowa Code sections 10A.402, 135C.6(1), 135C.14, 135C.32, 135C.36 and 227.4.

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◇ Two or more ARCs

¹ 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.

² See IAB, Inspections and Appeals Department.

CHAPTER 59 TUBERCULOSIS (TB) SCREENING

481—59.1(135B,135C) Purpose. The intent of this chapter is to outline requirements and procedures to conduct tuberculosis screening for health care workers in health care facilities and hospitals and for residents of health care facilities regulated by the department.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.2(135B,135C) Definitions. For purposes of this chapter, the following definitions apply:

“*Bacille Calmette-Guérin vaccination*” or “*BCG vaccination*” means a vaccine for TB. BCG vaccination is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and miliary disease. BCG vaccination is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness of the vaccine against adult pulmonary TB, and the vaccine’s potential interference with tuberculin skin test reactivity.

“*Baseline TB screening*” means the screening of health care workers (HCWs) of health care facilities or hospitals at the beginning of employment in a facility or hospital and of residents of health care facilities upon admission to a facility for latent tuberculosis infection (LTBI) and TB disease. Baseline TB screening includes a symptom screen for all HCWs and residents, and two-step tuberculin skin test (two-step TST) or single interferon-gamma release assay (IGRA) for *M. tuberculosis* for those persons with previous negative test results for *M. tuberculosis* infection.

“*Baseline TST*” or “*baseline IGRA*” means the two-step TST or IGRA, respectively, which is administered at the beginning of employment to newly hired HCWs or upon admission of residents to health care facilities.

“*Boosting*” means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

“*Department*” means the department of inspections and appeals.

“*Employment*” or “*employed*” means to be hired or retained for paid or unpaid work in a facility or hospital.

“*Extrapulmonary TB*” means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

“*Health care facility*” or “*facility*” means a health care facility as defined in Iowa Code section 135C.1 or a long-term care service of a hospital as defined in rule 481—51.38(135B).

“*Health care worker*” or “*HCW*” means any paid or unpaid person (including health care students) working in a health care facility or hospital, including any person who is paid either by the health care facility or hospital or paid by any other entity (i.e., temporary agency, private duty, Medicaid/Medicare or independent contractors), or any volunteer who volunteers in a health care facility or hospital on a consistent and regularly scheduled basis for five or more hours per week. Specifically excluded from the definition of “health care worker” are individuals such as visitors, building contractors, repair workers or others who are in the facility or hospital for a very limited purpose and are not in the facility or hospital on a regular basis.

“*Hospital*” means a hospital as defined in Iowa Code section 135B.1.

“*Interferon-gamma release assay*” or “*IGRA*” means a whole-blood test that can aid in diagnosing *M. tuberculosis* infection.

“*Laryngeal TB*” means a form of TB disease that involves the larynx and may be highly infectious.

“*Latent TB infection*” or “*LTBI*” means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

“*Mantoux method*” means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

“*Patient*” means a person admitted to a hospital.

“*Pulmonary TB*” means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts greater than three weeks. Pulmonary TB is usually infectious.

“*Purified protein derivative tuberculin*” or “*PPD tuberculin*” means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

“*Resident*” means a person admitted to a health care facility or a long-term care service of a hospital as defined in rule 481—51.38(135B). For purposes of this chapter, “resident” does not include a patient admitted to a hospital.

“*Risk classification*” means the category that the infection control team, or designated other staff, determines is appropriate for the facility or hospital as a result of the TB risk assessment.

“*Serial TB screening*” means TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components: (1) assessing for current symptoms of active TB disease, and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

“*Symptom screen*” means a procedure used during a clinical evaluation in which persons are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

“*TB patient*” means a person who had undiagnosed infectious pulmonary or laryngeal TB while in a health care facility or hospital during the preceding year. “TB patient” does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary TB, or laryngeal TB who have met criteria for noninfectiousness.

“*TB risk assessment*” means an initial and ongoing annual evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

“*TB screening*” means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of HCWs in hospitals and health care facilities and residents of health care facilities.

“*Transfer*” means an HCW changes employment from one health care facility or hospital to another health care facility or hospital where the time frame between employment does not exceed 90 days.

“*Treatment for LTBI*” means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

“*Tuberculin skin test*” or “*TST*” means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for TST.

“*Tuberculosis*” or “*TB*” means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species name refers to the entire *M. tuberculosis* complex, which includes *M. bovis*, *M. african*, *M. microti*, *M. canetti*, *M. caprae*, and *M. pinnipedii*.

“*Tuberculosis disease*” or “*TB disease*” means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting signs or symptoms) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present) illness.

“*Two-step tuberculin skin test*” or “*two-step TST*” means the procedure used for the baseline skin testing of persons who may receive serial TSTs.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.3(135B,135C) TB risk assessment.

59.3(1) Annually, a health care facility or hospital shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility or hospital. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures.

59.3(2) The TB risk assessment shall include the number of persons with infectious TB encountered in the facility or hospital that resulted in the facility’s or hospital’s conducting a contact investigation of exposed HCWs or patients during the previous 12 months.

59.3(3) TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility or hospital during the preceding year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary and laryngeal TB who have met criteria for noninfectiousness.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.4(135B,135C) Health care facility or hospital risk classification. The infection control team or designated staff in a health care facility or hospital is responsible for determining the type of risk classification. The facility’s or hospital’s risk classification is used to determine frequency of serial TB screening. The facility or hospital risk classification may change due to an increase or decrease in the number of TB cases during the preceding year. The following criteria are consistent with those of the Centers for Disease Control and Prevention (CDC), TB Elimination Division, as outlined in the MMWR December 30, 2005/Vol.54/No.RR-17, “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.”

59.4(1) *Types of risk classifications.*

a. “Low risk” means that a facility or hospital is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.

b. “Medium risk” means that a facility or hospital is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.

c. “Potential ongoing transmission” means that a facility or hospital is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility or hospital, the facility or hospital shall consult with the department of public health’s TB control program.

59.4(2) Classification criteria—low risk.

a. Inpatient settings with 200 beds or more. If a facility or hospital has fewer than six TB patients for the preceding year, the facility or hospital shall be classified as low risk.

b. Inpatient settings with fewer than 200 beds. If a facility or hospital has fewer than three TB patients for the preceding year, the facility or hospital shall be classified as low risk.

59.4(3) Classification criteria—medium risk.

a. Inpatient settings with 200 beds or more. If a facility or hospital has six or more TB patients for the preceding year, the facility or hospital shall be classified as medium risk.

b. Inpatient settings with fewer than 200 beds. If a facility or hospital has three or more TB patients for the preceding year, the facility or hospital shall be classified as medium risk.

59.4(4) Classification criteria—potential ongoing transmission. If evidence of ongoing *M. tuberculosis* transmission exists at a facility or hospital, the facility or hospital shall be classified as potential ongoing transmission, regardless of the facility’s or hospital’s previous classification.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.5(135B,135C) Baseline TB screening procedures for health care facilities and hospitals.

59.5(1) All HCWs shall receive baseline TB screening upon employment. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) testing using the two-step TST procedure or a single IGRA to screen for infection with *M. tuberculosis*. If the first-step TST result is negative, the second stage of the two-step TST is recommended one to three weeks after the first TST result was read. Administration of the second stage of the two-step TST shall not exceed 12 months after the first TST result was read. If initiation of the second stage of the two-step TST is greater than 12 months from when the first TST result was read, the two-step procedure must be restarted. If the first-step TST result is positive, it is not necessary to perform the second stage of the two-step TST.

59.5(2) An HCW may begin working with patients or residents after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or negative IGRA. The second TST may be performed after the HCW starts working with patients or residents.

59.5(3) An HCW with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless signs or symptoms of TB disease develop or unless a repeat radiograph is recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

59.5(4) An HCW with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

59.5(5) TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for HCWs with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. A TB symptom screen and documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result. All other HCWs should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

59.5(6) Previous BCG vaccination is not a contraindication to having an IGRA, a TST or a two-step skin testing administered. HCWs with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons BCG-vaccinated should be interpreted using the same criteria for those not BCG-vaccinated. An HCW’s history of BCG vaccination should be disregarded when administering and interpreting TST results. Prior BCG vaccination does not cause a false-positive IGRA test result.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.6(135B,135C) Serial TB screening procedures for health care facilities and hospitals.

59.6(1) *Health care facilities or hospitals classified as low risk.* After establishing baseline TB screening of HCWs, serial TB screening of HCWs is not necessary for health care facilities or hospitals classified as low risk.

59.6(2) *Health care facilities or hospitals classified as medium risk.*

a. After establishing baseline TB screening, HCWs in health care facilities or hospitals classified as medium risk shall receive serial TB screening annually. However, an HCW with a previous positive TB test result shall only receive annual TB symptom screening in accordance with 59.5(5).

b. An HCW with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, HCWs should receive a symptom screen annually. This screen should be accomplished by educating HCWs about symptoms of TB disease and instructing HCWs to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

59.6(3) *Health care facilities or hospitals classified as potential ongoing transmission.* HCWs in facilities or hospitals classified as potential ongoing transmission shall receive serial TB screening every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. However, an HCW with a previous positive TB test result shall only receive TB symptom screening in accordance with 59.5(5). The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting shall be reclassified as medium risk for a minimum of one year.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.7(135B,135C) Screening of HCWs who transfer to other health care facilities or hospitals.

59.7(1) *HCWs transferring from a low-risk health care facility or hospital to another low-risk health care facility or hospital.* HCWs with documentation of baseline TB screening who are transferring from a low-risk health care facility or hospital to another low-risk health care facility or hospital do not need to repeat baseline TB screening if the time frame between employment from one facility or hospital to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted for an HCW with a previous negative test result and a TB symptom screen shall be performed for an HCW with a previous positive TB test result in accordance with 59.5(5).

59.7(2) *HCWs transferring from a low-risk health care facility or hospital to a medium-risk health care facility or hospital.* HCWs with documentation of baseline TB screening who are transferring from a low-risk health care facility or hospital to a medium-risk health care facility or hospital do not need to repeat baseline TB screening if the time frame between employment from one facility or hospital to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted for an HCW with a previous negative test result and a TB symptom screen shall be performed for an HCW with a previous positive TB test result in accordance with 59.5(5).

59.7(3) *HCWs transferring from a low- or medium-risk health care facility or hospital to a health care facility or hospital classified as potential ongoing transmission.* HCWs with documentation of baseline TB screening who are transferring to a potential ongoing risk health care facility or hospital do not need to repeat baseline TB screening if the time frame between employment from one facility to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted for an HCW with a previous negative test result and a TB symptom screen shall be performed for an HCW with a previous positive TB test result in accordance with 59.5(5).

59.7(4) *HCWs transferring from a medium-risk health care facility or hospital to a low-risk health care facility or hospital.*

a. An HCW who is transferring from a medium-risk health care facility or hospital to a low-risk health care facility or hospital and whose previous TB test result was negative shall receive a symptom screen and a single TST or IGRA upon employment if the time frame between employment from one facility to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted.

b. An HCW who is transferring from a medium-risk health care facility or hospital to a low-risk health care facility or hospital and whose previous TB test result was positive shall receive a symptom screen upon employment in accordance with 59.5(5).

59.7(5) *HCWs transferring from a health care facility or hospital classified as potential ongoing transmission to a low- or medium-risk health care facility or hospital.*

a. An HCW who is transferring from a health care facility or hospital classified as potential ongoing transmission to a low- or medium-risk health care facility or hospital and whose previous TB test result was negative shall receive a symptom screen and a single TST or IGRA upon employment if the time frame between employment from one facility to another does not exceed 90 days. If the time frame between employment from one facility or hospital to another exceeds 90 days, baseline TB screening shall be restarted.

b. An HCW who is transferring from a health care facility or hospital classified as potential ongoing transmission to a low- or medium-risk health care facility or hospital and whose previous TB test result was positive shall receive a symptom screen upon employment in accordance with 59.5(5).

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.8(135B,135C) Baseline TB screening procedures for residents of health care facilities.

59.8(1) Baseline TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease, and (2) using the two-step TST procedure or a single IGRA to screen for infection with *M. tuberculosis*. If the first-step TST result is negative, the second stage of the two-step TST is recommended one to three weeks after the first TST result was read. Administration of the second stage of the two-step TST shall not exceed 12 months after the first TST result was read. If the second stage of the two-step TST is greater than 12 months from when the first TST result was read, the two-step procedure must be restarted. If the first-step TST result is positive, it is not necessary to perform the second stage of the two-step TST.

59.8(2) All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB screening for infection shall be initiated unless baseline TB screening occurred within 90 days prior to the resident's admission.

59.8(3) A resident with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless signs or symptoms of TB disease develop or unless a repeat radiograph is recommended by a clinician.

59.8(4) Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

59.8(5) TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.9(135B,135C) Serial TB screening procedures for residents of health care facilities. After baseline TB screening is accomplished, serial TB screening of residents is not recommended.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

481—59.10(135B,135C) Performance of screening and testing. Any nurse licensed in Iowa and properly trained to screen for TB and perform TB testing may screen for TB and perform TB testing.

[ARC 3930C, IAB 8/1/18, effective 9/5/18]

These rules are intended to implement Iowa Code sections 135B.7 and 135C.14.

[Filed ARC 0484C (Notice ARC 0353C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]¹

[Filed Emergency ARC 0674C, IAB 4/3/13, effective 3/26/13]

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¹ January 16, 2013, effective date of Chapter 59 [ARC 0484C] delayed 70 days by the Administrative Rules Review Committee at its meeting held January 8, 2013.

CHAPTER 60
MINIMUM PHYSICAL STANDARDS FOR RESIDENTIAL CARE FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 60]

481—60.1(135C) Definitions. Definitions in rules 481—57.1(135C) and 481—63.1(135C) are incorporated by reference as part of this chapter. In addition, the following definition shall apply:

“*Responsible design professional*” means a registered architect or licensed professional engineer who signs the documents submitted pursuant to rule 481—60.3(135C).

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.2(135C) General requirements. Residential care facilities licensed under this chapter shall be built in accordance with the following construction standards:

60.2(1) Construction shall be in conformance with 661—Chapter 201.

60.2(2) Construction shall be in conformance with 661—Chapter 301. Projects meeting the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system that includes both plan review and inspection.

60.2(3) Nothing in these rules shall relieve a residential care facility from compliance with fire and building codes, ordinances and regulations that are enforced by a city, county, state or federal jurisdiction.

60.2(4) Any alteration or installation of new equipment shall be accomplished as nearly as practical in conformance with all applicable codes, ordinances, regulations and standards required for new construction. Alteration or installation of new equipment shall not diminish the level of compliance with any codes, ordinances, regulations or standards below that existed prior to the alteration. Any feature that does not meet the requirement for new buildings but exceeds the requirement for existing buildings shall not be further diminished. Features that exceed requirements for new construction need not be maintained. In no case shall any feature be less than that required for existing buildings. (III)

60.2(5) Existing residential care facilities built in compliance with prior versions of this chapter will be deemed in compliance, with the exception of any renovations, additions, functional alterations, changes of space utilization, or conversions to existing facilities for which construction documents are submitted pursuant to rule 481—60.3(135C) on or after July 1, 2023, which shall meet the standards specified in this chapter. Conversion of a building or any of the parts not currently licensed as a nursing facility must meet the rules governing construction of new facilities.

60.2(6) Final plan approval and final occupancy shall be given by the state fire marshal’s office.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.3(135C) Submission of construction documents.

60.3(1) Submissions of architectural technical documents, engineering documents, and plans and specifications to the state fire marshal’s office shall be as required by rule 661—300.4(103A) and are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

60.3(2) Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the construction standards required by rule 481—60.2(135C).

60.3(3) Submittals to the state fire marshal’s office shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A, unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of engineering as defined by Iowa Code section 542B.2.

60.3(4) The responsible design professional shall certify that the building plans meet the requirements specified in this chapter, unless a waiver has been granted pursuant to rule 481—60.4(135C).

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.4(135C) Waivers.

60.4(1) Procedures in rule 481—57.2(135C) for requesting a waiver are incorporated by reference as part of this chapter.

60.4(2) Waivers are limited to the specific project under consideration and do not establish a precedent for similar acceptance in other cases. The type of license, occupancy, and function of the building will be considered with respect to a request for waiver. In specific cases, waivers may be granted by the director after the following conditions are met:

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

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

c. The health, safety or welfare of any resident is not endangered.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.5(135C) Additional notification requirements.

60.5(1) When new construction or renovation, addition, functional alteration, change of space utilization, or conversion of an existing building is contemplated, the licensee or applicant for a license shall:

a. File a detailed and comprehensive program of care, as set forth in rule 481—57.3(135C), which includes a description of the specific needs of the residents to be served, and any other information the department may require. (III)

b. Receive written approval from the state fire marshal's office before starting construction. The applicant is responsible for ensuring that construction proceeds according to approved plans and specifications.

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

60.5(2) For new construction or renovations, additions, functional alterations, change of space utilization or conversion of an existing building, it is the responsibility of the owner or an agent to notify the state fire marshal's office at all of the following intervals and wait for inspection before proceeding. Inspections shall be conducted in accordance with the following schedule:

a. Two days prior to the beginning of any construction or demolition.

b. After installation of any under-slab plumbing and before covering is installed.

c. After installation of electrical, mechanical and plumbing and prior to covering.

d. Five days prior to a final occupancy inspection.

60.5(3) The following must approve the project before final occupancy: the state fire inspector; the state building inspector; and, in jurisdictions without electrical code enforcement, the state electrical inspector. Approval of local or county jurisdictions is as required by those jurisdictions.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.6(135C) Construction requirements.

60.6(1) General provisions.

a. Projects shall be constructed in compliance with 661—Chapter 201. Projects required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the residential care facility is in compliance with the provisions of 661—Chapter 205.

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

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

60.6(2) Mechanical requirements.

a. Projects shall be constructed in compliance with 661—Chapter 201.

b. Projects shall be constructed in compliance with the state mechanical code as provided in 661—Chapter 201. Projects meeting the local mechanical code shall be deemed to be in compliance with the state mechanical code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system that includes both plan review and inspection.

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

60.6(3) Electrical requirements.

a. Projects shall be constructed in compliance with standards referenced in 661—Chapter 205.

b. Projects shall be constructed in compliance with the state electrical code as provided in 661—Chapter 504.

60.6(4) Plumbing requirements. Projects shall be constructed in compliance with 641—Chapter 25.

60.6(5) Accessibility requirements. Projects shall be constructed in compliance with 661—Chapter 302.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.7(135C) Typical construction.

60.7(1) Details and finishes shall be designed to provide a high degree of safety for the occupants by minimizing the opportunity for accidents. Hazards such as sharp corners shall be avoided. (III)

60.7(2) No door shall swing into the exit corridor except doors to spaces such as small closets that are not subject to occupancy. Each resident bedroom shall have a door that is a swing type and swings in, unless the door is fully recessed.

60.7(3) All doors opening into corridors shall be swing-type doors, except elevator doors. (III)

60.7(4) All sinks shall have towel dispensers that hold non-reusable towels. (III)

60.7(5) Partition, floor, and ceiling construction in resident areas shall comply with noise reduction criteria in the following table. The requirements set forth in this table assume installation methods that will not appreciably reduce the efficiency of the assembly as tested. Location of electrical receptacles, grills, ductwork, and other mechanical items, and blocking and sealing of partitions at floors and ceilings shall not compromise the sound isolation required. (III)

Table 1

Airborne Sound Transmission Class (STC)*

	<u>Partitions</u>	<u>Floors</u>
Resident's room to resident's room	35	35
Corridor to resident's room	35	35
Public space to resident's room**	40	40
Service areas to resident's room***	50	50

*STC shall be determined by tests in accordance with methods set forth in ASTM Standard E 90 and ASTM Standard E 413.

**Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar places.

***Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boiler and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above residents' rooms, offices, nurses stations, and similar occupied spaces shall be effectively isolated from the floor.

60.7(6) Doors, sidelights, borrowed lights, and windows in which the glazing extends below 31 inches from the floor shall have a horizontal mullion or railing at 31 to 34 inches above the finished floor and be glazed with safety glass, plastic glazing material, or wire glass where required by the state fire marshal. All replacement glass shall meet this code with no exception.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.8(135C) Sleeping, bathing, and medication rooms.

60.8(1) Facilities shall have a medication room that is well-lighted and has the following: (III)

- a. A drug cabinet;
 - b. A work counter;
 - c. Refrigerator storage;
 - d. A chest or compartment with a lock for storage of Schedule II drugs as defined by Iowa Code chapter 124;
- and
- e. A sink.

60.8(2) Facilities licensed for 15 beds or fewer need not have a medication room, but shall have space for the appropriate preparation and storage of medication, including locked medication storage as required in subrule 60.8(1).

60.8(3) Resident rooms shall meet the following minimum requirements:

- a. Bedrooms shall open directly into a corridor or common living area and shall not be used as a thoroughfare. (III)
- b. The minimum room area, exclusive of closets, toilet rooms, lockers, wardrobes, vestibules, and corridor door swings, shall be 100 square feet in one-bed rooms and 80 square feet per bed in multibed rooms. Usable floor space of a room shall be no less than 8 feet in any major dimension.
- c. Each resident room shall be provided with light by means of a window or windows with a net glass area equal to 10 percent of the total floor area. The window sill shall not be higher than 3 feet above the floor.
- d. There shall be a wardrobe, closet, or chest of drawers in each resident's room to provide sufficient storage for clothing and personal belongings. Where a closet is shared, segregated portions shall be established. Each wardrobe and closet in each resident room shall have a door. (III)
- e. No bedroom shall be located so that its floor will be more than 30 inches below the adjacent grade level. (III)
- f. Fixtures or storage shall be provided to hold individual towels and washcloths. (III)

g. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets other requirements its usage and occupancy dictate, except closets used for the storage of resident's clothing. (III)

h. Rooms in which beds are erected shall not be used for purposes other than bedrooms. (III)

i. Each resident bedroom shall have a door. The door shall be the swing type and shall swing in, unless fully recessed. (III)

j. Multibed rooms shall be designed to permit no more than two beds, side-by-side, parallel to the window wall. (III)

k. Each resident bedroom shall be so designed that the head of the bed shall not be in front of a window or a heat register or radiator. (III)

l. One sink shall be provided in each resident room. The sink may be omitted from a room when a sink is located in an adjoining toilet room which serves that room. (III)

m. Multibed rooms shall provide full visual privacy for each resident. (III)

60.8(4) Each resident toilet room shall be adjacent to the resident rooms. Jack and Jill-style toilet rooms are not permitted in new constructions or renovations.

60.8(5) Central bathing.

a. Minimum numbers of toilets in bathing facilities shall be one sink and one toilet for each 10 residents, and one tub or shower for each 15 residents or fraction thereof. For facilities licensed for 15 beds or fewer, one bathing unit shall be provided for each five residents.

b. There shall be a minimum of one bathroom with tub or shower, toilet, and sink on each floor that has resident bedrooms in multistory buildings. (III)

c. Separate toilets for genders shall be provided. (III)

d. Privacy for dressing and bathing shall be provided in central bathrooms. (III)

e. All bathrooms shall have mechanical ventilation. (III)

f. Each bathroom shall have a toilet and a sink. (III)

g. Toilet and bathing facilities shall not open directly into food preparation areas. (III)

h. Central bathing areas shall have a swinging door that swings into the bathroom. (III)

i. Soap holders shall be provided in showers and bathtubs. (III)

j. Raised toilet seats shall be available for residents as needed. (III)

k. 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)

l. Bathtubs or showers shall be equipped with screwdriver stop valves in the water supply system. (III)

m. The temperature of the hot water to the resident sinks, bath, and showers shall range between 110° Fahrenheit and 120° Fahrenheit.

60.8(6) A soiled workroom, work counter, waste and soiled linen receptacles, and a two-compartment sink shall be provided. (III) One compartment of the double sink shall be a minimum of 10 inches deep for cleaning and sanitizing equipment. (III)

60.8(7) Enclosed clean linen storage, separate from the clean workroom. (III)

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.9(135C) Dining, activity, and storage rooms.

60.9(1) Where space is provided for multipurpose dining, activities, or recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 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)

60.9(2) Where 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)

60.9(3) Where the dining and the lounge recreation areas are separated, each area shall provide a minimum of 180 square feet of usable floor space and be not less than 10 feet in any one dimension. Where space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

60.9(4) An equipment storage room shall be provided. (III)

60.9(5) Enclosed clothing storage of at least 2 linear feet per bed for storage of off-season clothing shall be provided.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.10(135C) Service area.

60.10(1) *Definition of a service area.* The size of a service area shall depend upon the number and types of beds within the supervised unit. A service area shall contain the following rooms or areas: (III)

- a. Dietetic service area,
- b. Janitor's closet,
- c. Laundry area,
- d. General storage area,
- e. Mechanical room,
- f. Maintenance shop,
- g. Yard equipment storage area.

60.10(2) *Dietetic service area.*

a. Detailed layout plans and specifications of equipment shall be submitted to the department for review and approval before the new construction, alterations, or additions to existing kitchens begin. (III)

b. The dietetic service area shall provide food serving facilities for residents and staff outside the food preparation area. (III)

c. The dishwashing area shall be provided with mechanical dishwashing equipment. Either conventional or chemical dishwashing equipment may be used. (III)

(1) Where conventional dishwashing equipment is used, the hot water system shall be designed to supply hot water at 110° Fahrenheit to 120° Fahrenheit. (III)

(2) A three-compartment pot and pan sink shall be provided for ware washing that provides and maintains hot water at 110° Fahrenheit to 115° Fahrenheit for washing and 170° Fahrenheit to 180° Fahrenheit for sanitizing, or a two-compartment sink shall be provided for soaking and washing utensils, with easy access to a dish machine that must be large enough for sanitizing all sizes of utensils used. (III)

(3) Machines (single-tank stationary rack, door-type machines and spray-type glass washers) using chemicals for sanitation may be used, provided that:

1. The temperature of the wash water shall not be less than 120° Fahrenheit. (III)
2. Chemicals added for sanitation purposes shall be automatically dispensed. (III)
3. The wash water shall be kept clean. (III)

4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration. (III)

5. The chemical sanitizing rinse water temperature shall be not less than 75° Fahrenheit nor less than the temperature specified by the machine's manufacturer. (III)

6. Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010. (III)

7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used. (III)

d. The dietetic service area shall be designed to provide a separation of the clean and dirty areas and to eliminate intermingling of the two types of activities. Food preparation and service areas are regarded as clean areas. (III)

e. A hand-washing sink shall be provided in the dietetic service area. In facilities licensed for eight beds or fewer, the sink shall be adjacent or convenient to the dietetic service area. (III)

f. There shall be refrigerated storage for at least a three-day supply of perishable food. (III)

g. There shall be available storage for at least a seven-day supply of staple food. (III)

h. Provisions for maintaining sanitary waste disposal and storage shall be provided on the premises. (III)

i. Where meals are provided by a health care facility or by a commercial food service, the preparation, storing and serving of the food and the utensil sanitizing procedures shall meet the requirements of these rules. (III)

j. Mechanical ventilation shall be provided in food storerooms to maintain temperatures and humidity at a level appropriate for the type of food being stored. (III)

60.10(3) *Janitor's closet.*

a. A janitor's closet shall be provided for storage of housekeeping supplies and equipment, including a floor receptor or service sink. (III)

b. The door to the janitor's closet shall be equipped with a lock. (III)

c. Locked storage shall be provided for chemicals. (III)

60.10(4) *Laundry area.*

a. In the laundry area, a work flow pattern shall be established in which soiled linen is not transported through the clean area to the soiled area. Two distinct areas physically separated, not necessarily by a wall, are required. (III)

b. A hand-washing sink shall be located in the laundry area. In facilities licensed for 15 beds or fewer, a hand-washing sink located adjacent to the laundry area may meet this requirement. (III)

c. Where linen is processed onsite, the following shall be provided (III):

(1) A clean, dry, well-lighted laundry processing room with equipment sufficient to process seven days' needs within the workweek.

(2) A soiled linen holding area.

(3) A clean linen area.

(4) Linen cart storage.

(5) Lockable storage for laundry supplies.

(6) One janitor's closet or alcove in the immediate vicinity of the laundry.

d. The laundry room in any facility not using off-site processing but serving more than 20 residents shall contain no less than 125 square feet of available floor space. (III)

e. Where linen is processed off the site, the following shall be provided (III):

(1) Soiled linen holding room.

(2) Clean linen receiving, holding, inspection, and storage area.

60.10(5) General storage areas.

a. General storage areas totaling not less than 10 square feet per bed shall be provided. Storage areas are not required to be located in the same area. (III)

b. The equipment storage room space may be included in this general area, but is not required to be located in the same area. (III)

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

d. Thirty percent of the general storage area may be provided in a building outside the facility, readily and easily accessible by the personnel. (III)

60.10(6) Mechanical, electrical, and maintenance areas. The following areas shall be provided (III):

a. Boiler room or mechanical room and electrical equipment room. (III)

(1) These rooms may be used for noncombustible material storage.

(2) Any noncombustible material shall not be stored close to or hinder access to any fuel-fired equipment or electrical panels.

(3) These areas shall not be included in calculating the 10 square feet per bed for general storage areas, as required under paragraph 60.10(5) "a."

b. Yard equipment storage may be provided in a separate room or building for yard maintenance equipment and supplies. This shall not be included in the general storage area.

c. No portable fuel-operated equipment shall be housed inside a facility unless it is separated by at least a two-hour fire separation approved by the state fire marshal's office.

d. Rooms containing heating or cooling equipment shall be locked.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.11(135C) Administration and staff area. The size of an administration and staff area depend upon the needs of the facility. An administration and staff area shall contain the following rooms or areas (III):

1. An administration office.

2. An area containing storage for office equipment and supplies. This area shall be secure and contain work space for charting and record storage and may contain medication storage.

3. A lounge shall be provided for staff. Toilet rooms with sink and toilet shall be provided for staff.

4. Closets or compartments for the safekeeping of coats and personal effects of staff.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.12(135C) Public area. A public area shall contain a public telephone accessible to the residents within the facility to make personal calls. It shall also contain a separate bathroom for the public, including a toilet and sink. (III)

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.13(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (memory care unit or facility). A memory care unit or facility shall be designed in accordance with the standards set forth in 661—Chapter 201. The following provisions shall also apply (III):

60.13(1) A memory unit or facility shall be designed so that residents, staff, and visitors will not pass through the unit in order to reach exits or other areas of the facility unless in an emergency.

60.13(2) If the unit or facility is to be a locked unit or facility, all locking devices shall meet the requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required.

60.13(3) The outdoor activity area for the unit or facility shall be secure. Nontoxic plants shall be used in the secured outdoor activity area.

60.13(4) There shall be no steps inside the memory care unit or facility.

60.13(5) Dining and activity areas for the unit or facility shall be located within the unit or facility and shall not be used as the primary dining or activity area by other facility residents.

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

481—60.14(135C) Elevator requirements. All residential care facilities where resident facilities are located on other than the first floor shall have one or more electric or electrohydraulic elevators, as required. For purposes of this requirement, resident facilities include, but are not limited to, diagnostic, recreation, activity, resident dining, and therapy rooms or additional resident bedrooms. The first floor is that floor first reached from the main front entrance. Elevators, where installed, shall comply with the division of labor rules as promulgated in Iowa Code chapter 89A and 875—Chapters 71 to 73. (III)

[ARC 7036C, IAB 5/31/23, effective 7/5/23]

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

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CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES

[Prior to 7/15/87, Health Department[470] Ch 61]

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

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13]

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

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

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

61.2(3) Construction shall be in accordance with the standards set forth in the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute.

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

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

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

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13; ARC 4264C, IAB 1/30/19, effective 3/6/19]

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

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

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

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

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13; ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—61.4(135C) Waivers.

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

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

- a.* The design and planning for the specific property shall offer improved or compensating features which provide equivalent desirability and utility;
- b.* Alternate or special construction methods, techniques, and mechanical equipment shall offer equivalent durability, utility, safety, structural strength and rigidity, sanitation, odor control, protection from corrosion, decay and insect attack, and quality of workmanship;
- c.* The health, safety or welfare of any resident shall not be endangered;
- d.* Variations are limited to the specific project under consideration and shall not be construed as establishing a precedent for similar acceptance in other cases;
- e.* The occupancy and function of the building shall be considered; and
- f.* The type of licensure shall be considered.

[ARC 0763C, IAB 5/29/13, effective 7/3/13; ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—61.5(135C) Additional notification requirements.

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

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

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

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

61.5(2) Inspections.

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

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

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13]

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

61.6(1) *General provisions.*

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

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

c. Projects shall be constructed in compliance with the standards set forth in the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute.

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

61.6(2) Mechanical requirements.

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

b. Projects shall be constructed in compliance with the state mechanical code as provided in rule 661—301.4(103A). Projects meeting the local mechanical code shall be deemed to be in compliance with the state mechanical code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system which includes both plan review and inspection.

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

61.6(3) Electrical requirements.

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

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

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

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

61.6(6) Lighting requirements. Light shall be provided in the areas of the building as required in the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facilities Guidelines Institute.

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13; ARC 4264C, IAB 1/30/19, effective 3/6/19]

481—61.7(135C) Nursing care unit.

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

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

- a. Be located where direct care staff can provide direct supervision; (I, II, III)
- b. Have only one door which swings out but does not swing into a corridor; (II, III)
- c. Have only locking devices that are approved by the state fire marshal; (I, II, III)
- d. Have unbreakable, fire-safe vision panels arranged to permit observation of the resident. The arrangement shall ensure resident privacy and prevent casual observation by visitors or other residents; (I, II, III)
- e. House only one resident at a time; (I, II, III)
- f. Have an area of at least 60 square feet, but not more than 100 square feet; (II, III)
- g. Be constructed to protect against the possibility of hiding, escape, injury and suicide; (I, II, III)
- h. Have construction of the room area, including floor, walls, ceilings, and all openings, approved in writing by the state fire marshal prior to construction or alteration of a room. Padding materials, if used, shall be approved in writing by the state fire marshal; (I, II, III)
- i. Contain only vandal- and tamper-resistant fixtures and hardware; (I, II, III)
- j. Contain no electrical receptacles; (I, II, III)
- k. Contain an exhaust ventilation system with a fan located at the discharge end of the system, with exhaust discharging to the outside; (II, III)
- l. Have electrical switches for the light and exhaust ventilation systems installed outside the room; (I, II, III)
- m. Have an emergency call system for staff located outside the room near the observation window; (II, III) and
- n. Be built with materials that are easily maintained and sanitized. (III)

[ARC 0763C, IAB 5/29/13, effective 7/3/13]

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

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

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

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

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13]

481—61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility). A CCDI unit or facility shall be designed in accordance with the standards set forth in the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute. The following provisions shall also apply:

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

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

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

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

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

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

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

[ARC 0763C, IAB 5/29/13, effective 7/3/13; ARC 4264C, IAB 1/30/19, effective 3/6/19]

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

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CHAPTER 62
RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (RCFs/PMI)

481—62.1(135C) Applicability. This chapter relates specifically to the licensing and regulation of residential care facilities for persons with mental illness (RCFs/PMI). Refer to 481—Chapter 57 for the licensing and regulation of all residential care facilities, including RCFs/PMI, and to 481—Chapter 60 for minimum physical standards for all residential care facilities.

[ARC 3739C, IAB 4/11/18, effective 5/16/18]

481—62.2(135C) Definitions. In addition to the definitions in 481—Chapter 57 and Iowa Code chapter 135C, the following definitions apply.

“*Commission*” means the mental health and disability services commission.

“*Department*” means the Iowa department of inspections and appeals.

“*Dependent adult abuse*” is as defined in rule 481—52.1(235E).

“*Evaluation services*” means those activities designed to identify a person’s current level of functioning and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.

“*Interdisciplinary team process*” means an approach to assessment, service planning, and service implementation in which members of an interdisciplinary team utilize the skills, competencies, insights and perspectives provided by each member’s training and experience to develop a single, integrated, individual program plan to meet a resident’s needs for services.

“*Level of functioning*” means a person’s current physiological and psychological status and current academic, community living, self-care, and vocational skills.

“*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 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.

“*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.

“*Psychiatric advanced registered nurse practitioner*” means an individual currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who holds a national certification in psychiatric mental health care and who is licensed by the board of nursing as an advanced registered nurse practitioner.

“*Psychiatric nurse*” means a person who meets the requirements of a certified psychiatric nurse, is eligible for certification by the American Nursing Association, and is licensed by the state of Iowa to practice nursing as defined in Iowa Code chapter 152.

“*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, 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.

“*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*” or “*QMHP*” means a person who:

1. Is a psychiatrist, psychologist, social worker, certified psychiatric nurse, psychiatric advanced registered nurse practitioner, or mental health counselor; or
2. Is a doctor of medicine or osteopathic medicine, a physician assistant, or an advanced registered nurse practitioner and has at least one year’s documented supervised experience in providing mental health services; or
3. Has a master’s degree with coursework focusing on diagnosis, evaluation, and psychotherapeutic treatment of mental health problems and mental illness; or
4. 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.

If the person is practicing in a field covered by an Iowa licensure law, the person shall hold a current Iowa license.

“Resident” means a person who has been admitted to the facility to receive care and services.

“Social worker” means a person who is licensed to practice social work in the state of Iowa or who is eligible for licensure.

[ARC 3739C, IAB 4/11/18, effective 5/16/18]

481—62.3(135C) Personnel. In addition to personnel requirements found in 481—Chapter 57, the RCF/PMI shall provide for services of a qualified mental health professional, by direct employment or contract, whose responsibilities shall include, but not be limited to: (II, III)

1. Approval of each resident’s service plan; (II, III)
2. Monitoring the implementation of each resident’s service plan; (II, III)
3. Recording each resident’s progress; and (II, III)
4. Participating in a periodic review of each resident’s service plan. (II, III)

[ARC 3739C, IAB 4/11/18, effective 5/16/18]

481—62.4(135C) Admission criteria. In addition to admission criteria found in 481—Chapter 57, the facility’s 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)

[ARC 3739C, IAB 4/11/18, effective 5/16/18]

481—62.5(135C) Evaluation services.

62.5(1) 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)

62.5(2) 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 primary care provider. (II, III)

62.5(3) Evaluation.

a. The portion of the evaluation to identify the resident’s current level of functioning and need for services shall:

(1) 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, and academic skills. (II, III)

(2) Be of sufficient detail to determine the appropriateness of placement according to the skills and needs of the resident. (II, III)

(3) Be made without regard to the availability of services. (III)

(4) Be performed by a QMHP, in consultation with the interdisciplinary team. (II, III)

b. 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)

c. 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 a service plan. (III)

d. 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)

62.5(4) 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 service plan. (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 service 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. (II, III)

[ARC 3739C, IAB 4/11/18, effective 5/16/18]

These rules are intended to implement Iowa Code section 135C.14(7).

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CHAPTER 63
RESIDENTIAL CARE FACILITY—THREE- TO FIVE-BED SPECIALIZED LICENSE
[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 meanings indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules.

“Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

“Administrator” means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a three- to five-bed 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.

“Ambulatory” means the condition of a person who immediately and without aid of another person is physically and 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 of the building.

“Board” means the regular provision of meals.

“Change of ownership” means the purchase, transfer, assignment or lease of a licensed three- to five-bed residential care facility.

“Communicable disease” means a disease caused by the presence within a person’s body of a virus or microbial agents which may be transmitted either directly or indirectly to other persons.

“Department” means the state department of inspections and appeals.

“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 the resident’s needs.

“Legal representative” means the resident’s guardian or conservator if one has been appointed or the resident’s power of attorney.

“Mechanical restraint” means restriction by the use of a mechanical device of a resident’s mobility or ability to use the hands, arms or legs.

“Medication” means any drug, including over-the-counter substances.

“Nonambulatory” means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“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 eating, and supervision over medications which can be self-administered.

“Physical restraint” means direct physical contact on the part of a staff person to control a resident’s physical activity for the resident’s own protection or for the protection of others.

“Primary care provider” means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program of care” means all services being provided for a resident in a health care facility.

“Prone restraint” means a restraint in which a resident is in a face-down position against the floor or another surface.

“Rate” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules.

“Records” includes electronic records.

“Responsible party” means the person who signs or cosigns the residency agreement required by rule 481—63.12(135C) or the resident’s legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident’s residency agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“Restraints” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

“Specialized residential care facility license” means a license for three- to five-bed residential care facilities serving persons with an intellectual disability, chronic mental illness, a developmental disability or brain injury.

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.2(135C,17A) Waiver. A waiver from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver will be granted or denied by the director within 120 calendar days of receipt.

[ARC 3740C, IAB 4/11/18, effective 5/16/18; ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—63.3(135C) Application for licensure.

63.3(1) Application and licensing—new facility or change of ownership. In order to obtain a specialized residential care facility license for a facility not currently licensed as a specialized residential care facility or for a specialized residential care facility when a change of ownership is contemplated, the applicant must:

- a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.
- b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—Chapter 50.
- c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 63.3(2).
- d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.
- e. Submit a photograph of the front and side of the residential care facility.
- f. Submit the fee for a specialized residential care facility license in accordance with 481—paragraph 50.3(2) “a.”
- g. Comply with all other local statutes and ordinances in existence at the time of licensure.
- h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

63.3(2) Résumé of care. The résumé of care shall describe the following:

- a. Purpose of the facility;
- b. Criteria for admission to the facility;
- c. Ownership of the facility;
- d. Composition and responsibilities of the governing board;
- e. Qualifications and responsibilities of the administrator;
- f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;
- g. Dental services provided to residents and available in the area;
- h. Nursing services provided to residents, if applicable;
- i. Personal services provided to residents, including supervision of or assistance with activities of daily living;
- j. Activity program;
- k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;
- l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;
- m. Housekeeping;
- n. Laundry;
- o. Physical plant; and
- p. Staffing provided to meet residents’ needs.

63.3(3) Renewal application. In order to obtain a renewal of the specialized residential care facility license, the applicant must submit the following:

- a. The completed application form 30 days prior to the annual license renewal date of the residential care facility license;
- b. The fee for a specialized residential care facility license in accordance with 481—paragraph 50.3(2) “a.”;
- c. An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;
- d. Changes to the résumé of care, if any; and
- e. Changes to the current residency agreement, if any.

[ARC 3740C, IAB 4/11/18, effective 5/16/18; ARC 4577C, IAB 7/31/19, effective 9/4/19]

481—63.4(135C) Issuance of license. Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.5(135C) General requirements.

63.5(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

63.5(2) The license shall be valid only in the possession of the licensee to whom it is issued.

63.5(3) The posted license shall accurately reflect the current status of the facility. (III)

63.5(4) The license shall expire one year after the date of issuance or as indicated on the license.

63.5(5) The licensee shall:

a. Assume the responsibility for the overall operation of the facility. (I, II, III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)

c. Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

63.5(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. (I, II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.6(135C) Required notifications to the department. The department shall be notified:

63.6(1) Thirty days before any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

63.6(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

63.6(3) Thirty days before closure of the residential care facility; (III)

63.6(4) Within two weeks of any change in administrator; (III)

63.6(5) Ninety days before a change in the category of license; (III)

63.6(6) Thirty days before a change of ownership. The licensee shall:

a. Inform the department of the pending change of ownership; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (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)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.7(135C) Administrator. Each facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

63.7(1) *Qualifications of an administrator.*

a. The administrator shall be at least 21 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:

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. The administrator shall have at least one year of documented experience in a supervisory or direct care position working with persons with an intellectual disability, mental illness, a developmental disability, or brain injury.

c. An individual employed as an administrator on May 16, 2018, will be deemed to meet the requirements of this subrule.

63.7(2) Duties of an administrator. The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

- (1) Infection control.
- (2) Emergency preparedness (e.g., fire, tornado, flood, 911).
- (3) Meal time procedures/dietary.
- (4) Resident activities.
- (5) Mental illness, brain injury or intellectual disabilities, including behavioral intervention, de-escalation, and crisis intervention techniques.

(6) Resident safety/supervision.

(7) Resident rights.

(8) Medication education, to include administration, storage and drug interactions.

(9) Resident service plans/programming/goals.

63.7(3) Administrator serving at more than one residential care facility. 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)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

(1) Have at least one year of documented experience in a supervisory or direct care position working with persons with an intellectual disability, mental illness, a developmental disability, or brain injury; (II, III)

(2) Be knowledgeable of the operation of the facility; (II, III)

(3) Have access to records concerned with the operation of the facility; (II, III)

(4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

(5) Be at least 21 years of age; (III)

(6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)

(7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

63.7(4) Provisional administrator. 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 one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and has approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 63.7(3) "b."

63.7(5) Temporary absence of administrator.

a. In the temporary 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:

(1) Be knowledgeable of the operation of the facility; (III)

(2) Have access to records concerned with the operation of the facility; (III)

(3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

(4) Be at least 21 years of age; (III)

(5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

(6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 63.7(4).

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.8(135C) Personnel.

63.8(1) *Alcohol and drug use prohibited.* No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

63.8(2) *Job description.* There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

63.8(3) *Employee criminal record, child abuse 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 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)

63.8(4) *Personnel record.* A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address; social security number; date of birth; date of employment; position; job description; experience and education; results of criminal record checks, child abuse checks and dependent adult abuse checks; and date of discharge or resignation. (III)

63.8(5) *Supervision and staffing.*

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be available and responsive to residents' needs at all times while on duty. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

63.8(6) *Physical examination and screening.* Employees shall have a physical examination within 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18; ARC 4577C, IAB 7/31/19, effective 9/4/19]

481—63.9(135C) General policies. The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

63.9(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including but not limited to the following: (III)

- a.* Personnel; (III)
- b.* Admission; (III)
- c.* Evaluation services; (II, III)
- d.* Programming and individual program plans; (II, III)
- e.* Registered sex offender management; (II, III)
- f.* Crisis intervention; (II, III)
- g.* Discharge or transfer; (III)
- h.* Medication management, including self-administration of medications and chemical restraints; (III)
- i.* Resident property; (II, III)
- j.* Resident finances; (II, III)
- k.* Records; (III)
- l.* Health and safety; (II, III)
- m.* Nutrition; (III)
- n.* Physical facilities and maintenance; (III)
- o.* Resident rights; (II, III)
- p.* Investigation and reporting of alleged dependent adult abuse; (II, III)
- q.* Investigation and reporting of accidents or incidents; (II, III)
- r.* Transportation of residents; (II, III)
- s.* Resident supervision; (II, III)
- t.* Smoking; (III)
- u.* Visitors; (III)

- v. Disaster/emergency planning; (III) and
- w. Infection control. (III)

63.9(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

63.9(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

- a. Techniques for hand washing; (I, II, III)
- b. Techniques for the handling of blood, body fluids, and body wastes; (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; (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) and
- h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

63.9(4) *Resident care techniques.* The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

- a. Intravenous or central line catheter; (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(5) *Emergency care.* The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.10(135C) Admission, transfer and discharge.

63.10(1) *General admission policies.*

- a. Residents shall be admitted to a specialized residential care facility only on a written order signed by a primary care provider or psychiatrist, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)
- b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)
- c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)
- d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)
- e. 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 the safe and orderly management of the residential care facility as required by these rules. (III)
- f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)
- g. 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 within the third degree of consanguinity to the person acting as guardian. (III)

63.10(2) *Discharge or transfer.*

- a. Notification shall be made to the legal representative, primary care provider, psychiatrist, if any, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)

- b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)
 - c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)
 - d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. "Appropriate record" includes the resident's face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)
 - e. When a resident is transferred or discharged, the resident's unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)
- [ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.11(135C) Involuntary discharge or transfer.

63.11(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident's welfare or that of other residents;
- c. Repeated refusal by the resident to participate in the resident's service plan;
- d. Due to action pursuant to Iowa Code chapter 229; or
- e. Nonpayment for the resident's stay, as described in the residency agreement for the resident's stay.

63.11(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

63.11(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may 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). Written documentation 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 include specific information to support this determination. (II)

63.11(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a. The notice 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, that reads as follows: (II)

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. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or 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.

b. The notice 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; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 63.11(4)"a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) 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, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.11(6).

63.11(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads: (II)

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 7 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 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.

b. The notice 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; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.11(6).

63.11(6) *Hearing.*

a. Request for hearing.

- (1) The resident must request a hearing within 7 days of receiving the written notice.
- (2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal 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. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

63.11(7) *Nonpayment.* 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)

63.11(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge 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. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.11(5) and emergency notice is provided within 48 hours.

63.11(9) *Transfer or discharge planning.*

a. 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)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall be offered counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling, if accepted, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.11(9) "b" does not apply if the discharge has already occurred pursuant to subrule 63.11(5) and emergency notice is provided within 48 hours.

d. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

63.11(10) *Transfer upon revocation of license or voluntary closure.* 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 the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

63.11(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) 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 subparagraph 63.11(11) "a" (4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 63.11(11) "a" (1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.11(11) "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, III)

d. If emergency relocation is required in order 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 that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. 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)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.12(135C) Residency agreement.

63.12(1) Each residency agreement shall:

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) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) 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)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) 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; (II, III)

(2) Notification to the resident, or the 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. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of 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. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be 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, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement 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. (II, III)

63.12(2) Each party to the residency agreement shall be provided a copy of the signed agreement. (II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.13(135C) Medical examinations.

63.13(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

63.13(2) Each resident admitted to a residential care facility shall have 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 primary care provider, 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 medical concerns, 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)

63.13(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring further medical treatment. (I, II, III)

63.13(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.14(135C) Records.

63.14(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a specialized 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. Primary care provider'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. Mortuary'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 primary care provider that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
- l. Primary care provider's orders for medication, treatment, and diet in writing and signed by the primary care provider; (III)
- m. A notation of yearly or other visits to primary care provider or other professional services; (III)
- n. Any change in the resident's condition; (II, III)
- o. If the primary care provider 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 primary care provider for each resident; (III)
- p. If the primary care provider 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, including a medication manager or certified medication aide; (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 the resident's 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 primary care provider 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)
- v. Current individual program plans. (II, III)

63.14(2) *Confidentiality of resident records.*

a. Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

b. 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)

c. 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)

d. 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 primary care provider determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted before the record is made available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

63.14(3) Incident record.

a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)

b. Report of incidents shall be in detail on an incident report form. (III)

c. The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)

d. An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)

e. An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)

f. A copy of the incident report shall be kept on file in the facility. (II, III)

63.14(4) Retention of records.

a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

63.14(5) Electronic records. In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

63.14(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.14(7) Personnel record.

a. Personnel records for each employee shall be kept in accordance with subrule 63.8(4). (III)

b. The personnel records shall be made available for review upon request by the department. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.15(135C) Resident care and personal services.

63.15(1) A complete change of bed linens shall be provided at least once a week and more often if necessary. (III)

63.15(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

63.15(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

63.15(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

63.15(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.16(135C) Drugs.**63.16(1) Drug storage.**

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access, and the drug storage shall be kept locked when not in use. Monitoring of the storage, administration, and documentation by the resident shall be carried out by a person who meets the requirements of subrule 63.16(3) and is responsible for administering medications. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)

(2) A bathroom shall not be used for drug storage. (III)

(3) The drug storage shall be kept locked when not in use. (III)

(4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)

(5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)

(6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)

(7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

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

(9) Inspection of drug storage shall be made by the administrator or designee 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, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

63.16(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider'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 primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. Medications prescribed for one resident shall not be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (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 resident's primary care provider, 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 possess any medications unless the primary care provider 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 primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period that the resident will be on leave from the facility may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

63.16(3) Drug administration—authorized personnel.

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or an individual who has completed the state-approved training course in medication administration, including a medication manager or certified medication aide. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

e. A person who is a nursing student or a graduate nurse may take the medication aide challenge examination in place of taking a course. The person shall do all of the following before taking the challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

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 63.16(3) "d" do not apply to this person. (III)

63.16(4) Drug administration.

a. 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. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, "injectable medications" does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident's primary care provider as capable of injecting the resident's own insulin may do so. Insulin may be administered pursuant to paragraph 63.16(4) "b" or as otherwise authorized by the resident's primary care provider. (II, III) Authorization shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the person authorized to administer the insulin,

(5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident's own medication if the primary care provider has certified in writing in the resident's medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident's medical record what the resident's participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident's primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident's primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident's use of PRN medications when conducting the inspection of drug storage as required by subparagraph 63.16(1) "b"(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 63.16(1) "b"(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18; ARC 4577C, IAB 7/31/19, effective 9/4/19]

481—63.17(135C) Dental services.

63.17(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

63.17(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident's primary care provider shall be advised of the resident's dental problems. (III)

63.17(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

63.17(4) Personal care staff shall assist the resident in carrying out the dentist's recommendations. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.18(135C) Dietary.

63.18(1) *Dietary staffing.* Personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

63.18(2) *Nutrition and menu planning.*

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. In facilities where residents plan and prepare their own meals, education and support shall be provided to residents regarding proper food preparation, dietary guidelines, and food safety.

c. In facilities where food is regularly prepared for residents, the following shall apply:

(1) Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

(2) At least three meals or their equivalent shall be offered daily, at regular hours. (II, III)

1. There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

2. Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

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

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

(5) 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 or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

(6) The facility shall provide an alternative choice at scheduled meal times. (III)

63.18(3) *Dietary storage, food preparation, and service.*

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. 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 bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

63.18(4) Sanitation in food preparation area. There shall be written procedures established for cleaning all work and serving areas. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.19(135C) Orientation and service plan.

63.19(1) Orientation. Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

63.19(2) Initial service plan. Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 63.19(3) is complete. (I, II, III)

63.19(3) Service plan. Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident and the resident's interdisciplinary team, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. 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 responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.20(135C) Resident activities program.

63.20(1) Activities program. Each residential care facility shall provide suitable group and individual activities for residents. (III)

a. The activities provided 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 primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. Residents shall be encouraged, but not required, to participate in activities. (III)

63.20(2) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

63.20(3) 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)

63.20(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)

b. Storage shall be provided for recreational equipment and supplies. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.21(135C) Residents' rights.

63.21(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and

procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

63.21(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

- a. Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)
- b. Ensure protection of the resident from any form of reprisal or intimidation; (II, III)
- c. Include designation of an employee responsible for handling grievances and recommendations; (II, III)
- d. Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and
- e. Include methods of recording grievances and actions taken. (II, III)

63.21(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

63.21(4) 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 the resident's admission or, in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

a. The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff and what is expected from residents. 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 the resident's admission. (II, III)

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 or hard of hearing, 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, III)

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 resident's 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. (II, III)

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, III)

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 hard-of-hearing, or blind residents of changes. (II, III)

63.21(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

63.21(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with a responsible party, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

63.21(7) 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)

63.21(8) 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 changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

63.21(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation by facility prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

63.21(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18; ARC 5711C, IAB 6/16/21, effective 7/21/21]

481—63.22(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. (I, II)

63.22(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. (I, II)

63.22(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)

63.22(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)

63.22(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)

63.22(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)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.23(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)

63.23(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)

63.23(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 primary care provider 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)

63.23(3) Decisions to restrict a visitor are reviewed and reevaluated:

a. Each time the medical orders are reviewed by the primary care provider;

b. At least quarterly by the facility's staff; or

c. At the resident's request. (II)

63.23(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.23(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

63.23(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.23(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or the facility administrator for refusing permission. (II)

63.23(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 3740C, IAB 4/11/18, effective 5/16/18]

481—63.24(135C) Resident property.

63.24(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location

which is convenient for the resident to review and update. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

63.24(2) The 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 that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

63.24(3) Any funds or other property belonging to or due a resident, or expendable for the resident's account, which is received by the facility shall be trust funds; shall be kept separate from the funds and property of the facility and of its other residents, or specifically credited to such resident; and shall be used or otherwise expended only for the account of the resident. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.25(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. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.25(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

63.25(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.25(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. 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 resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

63.25(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent 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)

63.25(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

63.25(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 legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or to the local law enforcement agency, as appropriate. (II)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.26(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

63.26(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider or psychiatrist is required for all work programs. (I, II)

63.26(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.27(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

63.27(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

63.27(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

63.27(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

63.27(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

63.27(5) Staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16. (I, II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.28(135C) Crisis intervention. If a facility utilizes physical restraints, the facility shall have written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, establish a mechanism for monitoring and controlling their use, and provide staff with proper training. (I, II)

63.28(1) Temporary physical restraint 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 programming; (I, II) and
- c. No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

63.28(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

63.28(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

63.28(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

63.28(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

63.28(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

- a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)
- b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)
- c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

63.28(7) Residents shall not be kept behind locked doors. (I, II)

63.28(8) Mechanical restraint is prohibited. Staff persons who find themselves involved in the use of a mechanical restraint when responding to an emergency must take immediate steps to end the mechanical restraint. (I, II)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.29(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. (I, II, III)

63.29(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.

63.29(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 prominently posted in a common area of the building. (III)
- b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

63.29(3) *Resident safety.*

- a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)
- b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)
- c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)
- d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall have an order by their primary care provider stating the resident is able to utilize such materials, and staff shall supervise the residents as identified in the resident's service plan. (I, II, III)
- e. Sufficient numbers of noncombustible trash containers with covers shall be available. (III)
- f. Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

63.29(4) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.30(135C) Housekeeping.

- 63.30(1)** Each resident room shall be cleaned on a routine schedule. (III)
- 63.30(2)** 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. (II, III)
- 63.30(3)** A hallway or corridor shall not be used for storage of equipment. (II, III)
- 63.30(4)** All odors shall be kept under control by cleanliness and proper ventilation. (III)
- 63.30(5)** Clothing worn by personnel shall be clean and washable. (III)
- 63.30(6)** All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)
- 63.30(7)** Polishes used on floors shall provide a nonslip finish. (II, III)
- 63.30(8)** Throw or scatter rugs shall have nonskid backing. (II, III)
- 63.30(9)** Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.31(135C) Maintenance.

- 63.31(1)** The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)
- 63.31(2)** Window treatments and furniture shall be clean and in good repair. (II, III)
- 63.31(3)** Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)
- 63.31(4)** The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)
- 63.31(5)** All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)
- 63.31(6)** Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)
- 63.31(7)** The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)
- 63.31(8)** The facility shall be kept free of flies, other insects, and rodents. (II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.32(135C) Laundry.

- 63.32(1)** Residents' personal laundry shall be marked with an identification if commingled with other residents' personal laundry. (III)
- 63.32(2)** Bed linens, towels, and washcloths shall be clean and stain-free. (III)
- 63.32(3)** If laundry is done in the facility, a clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility shall be provided. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.33(135C) Garbage and waste disposal.

- 63.33(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)
- 63.33(2)** All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)
- 63.33(3)** All unlined containers inside of the facility shall be thoroughly cleaned each time the containers are emptied. (III)
- 63.33(4)** All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.34(135C) Supplies.

- 63.34(1)** *Linen supplies.*
 - a. There shall be an adequate supply of linens 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. Adequate storage shall be provided for linens, pillows, and bedding. (III)

63.34(2) *Supplies, equipment and storage.*

- 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)
- c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.35(135C) Buildings, furnishings, and equipment.**63.35(1) *Buildings—general requirements.***

- a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)
- b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)
- c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)
- d. The facility shall be located in an area zoned for single- or multiple-family housing or 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)

63.35(2) *Furnishings and equipment.*

- a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)
- b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

63.35(3) *Dining areas and living rooms.*

- a. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)
- b. Dining areas shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

63.35(4) *Bedrooms.*

- a. Each resident shall be provided with a twin-sized or larger 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. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)
- d. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)
- e. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- f. 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 the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)
- g. 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)
- h. Each room shall have sufficient accessible mirrors to serve resident's needs. (III)
- i. Useable floor space of a room shall be no less than 8 feet in any major dimension. (III)
- j. Bedrooms shall have a minimum of 60 square feet of useable floor space per bed for a double room, 80 square feet of useable floor space for a single room. (III)
- k. There shall be no more than two residents per room. (III)

63.35(5) *Bath and toilet facilities.*

- a. All sinks shall have paper towel dispensers and an available supply of soap. (III)
- b. Toilet paper shall be readily available to residents. (III)
- c. There shall be a minimum of one toilet and bath facility for five residents. (III)

63.35(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

63.35(7) *Water supply.*

- a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)

b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)

c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

d. Hot and cold running water under pressure shall be available in the facility. (II, III)

e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18; ARC 4577C, IAB 7/31/19, effective 9/4/19]

481—63.36(135C) Family and employee accommodations. 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 the residents. (III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

481—63.37(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

[ARC 3740C, IAB 4/11/18, effective 5/16/18]

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

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◇ 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 Rule 481—63.49(135C), effective 7/1/92.

⁴ September 7, 2016, effective date of 57.19(3) “d,” 62.15(2) “d,” and 63.18(3) “d” [ARC 2643C] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 5, 2016.

CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED¹

481—64.1 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.2(135C) Waivers. Waivers 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 a waiver 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 waiver will apply only to an individual intermediate care facility for the intellectually disabled. Waivers will be reviewed at the discretion of the director of the department of inspections and appeals.

64.2(1) To request a waiver, the licensee must:

- a. Apply for a waiver in writing on a form provided by the department;
- b. Cite the rule or rules from which a waiver is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the waiver;
- e. Demonstrate that the requested waiver will not endanger the health, safety, or welfare of any resident.

64.2(2) Upon receipt of a request for a waiver, the director of the department of inspections and appeals will:

- a. Examine the rule from which a waiver 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 waiver 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 waiver will be either granted or denied within 120 days of receipt.

[ARC 0764C, IAB 5/29/13, effective 7/3/13; ARC 5719C, IAB 6/16/21, effective 7/21/21]

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;
- 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;
- 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]

* Nullified by 1989 Iowa Acts, SJR 10

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 by 42 CFR 483.430(d)(3). 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; and (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)

[ARC 0764C, IAB 5/29/13, effective 7/3/13; ARC 6972C, IAB 4/5/23, effective 5/10/23]

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 also 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 first 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 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.9 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.10 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.11 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.12 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.13 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.14 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.15 Rescinded IAB 7/26/89, effective 7/7/89.

481—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 health and human services shall continue funding for the temporary absence as provided under paragraphs "*a*" and "*b*" and in accordance with department of health and human 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; ARC 6972C, IAB 4/5/23, effective 5/10/23]

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. (II)

64.18(3) Incident records. Each facility 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 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)

[ARC 6972C, IAB 4/5/23, effective 5/10/23]

481—64.19 to 64.32 Reserved.

481—64.33(135C) Allegations of dependent adult abuse.

64.33(1) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

64.33(2) 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 department's abuse investigation is completed and an abuse determination is made. (I, II)

[ARC 1204C, IAB 12/11/13, effective 1/15/14]

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 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; ARC 6972C, IAB 4/5/23, effective 5/10/23]

481—64.35(135C) Care review committee. Rescinded ARC 1205C, IAB 12/11/13, effective 1/15/14.

481—64.36(135C) Involuntary discharge or transfer.

64.36(1) Involuntary discharge or transfer permitted. A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Nonpayment for the resident's stay, as described in the contract for the resident's stay;

d. Due to action pursuant to Iowa Code chapter 229;

e. By reason of negative action by the Iowa department of human services; or

f. By reason of negative action by the quality improvement organization (QIO). (I, II, III)

64.36(2) Medical reasons. Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

64.36(3) Welfare of a resident. Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may 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). Written documentation 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 include specific information to support this determination. (II)

64.36(4) *Involuntary discharge or transfer prohibited—payment source.* 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 Iowa Code chapter 249A. (I, II)

64.36(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice 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, that reads as follows: (II)

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 the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or 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.

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 64.36(5) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) 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, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 64.36(7).

64.36(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows: (II)

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 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 the department's receipt of your request. 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 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.

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 64.36(7).

64.36(7) Hearing.

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 9. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than five full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal 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.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

g. 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 QIO, an appeal shall be filed with those entities as appropriate. Continued payment shall be consistent with rules of those entities.

64.36(8) Nonpayment. 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)

64.36(9) Discussion of involuntary transfer or discharge. Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge 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. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 64.36(6) and emergency notice is provided within 48 hours.

64.36(10) Transfer or discharge planning.

a. 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)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 64.36(10)“b” does not apply if the discharge has already occurred pursuant to subrule 64.36(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

64.36(11) *Transfer upon revocation of license or voluntary closure.* 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 the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

64.36(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident’s record: (II)

- (1) A resident’s incompatibility with or disturbance to other roommates.
- (2) For the welfare of the resident or other residents of the facility.
- (3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, 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 that 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 (Medicaid) 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 subparagraph 64.36(12)“a”(5). (II)
- (2) As punishment or behavior modification, except as specified in subparagraph 64.36(12)“a”(1). (II)
- (3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 64.36(12)“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 in order 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 that necessitates emergency relocation, and such notification shall be documented. (II)

e. 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)

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15; ARC 3523C, IAB 12/20/17, effective 1/24/18; ARC 6972C, IAB 4/5/23, effective 5/10/23]

481—64.37 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.38 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.39 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.40 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.41 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.42 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.43 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.44 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.45 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.46 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.47 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.48 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.49 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.50 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.51 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.52 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.53 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.54 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.55 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.56 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.57 Rescinded IAB 7/26/89, effective 7/7/89.

481—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 I, Sections 410 to 480, 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.

The classifications for violations are 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.

NOTE: The federal interpretive guidelines are printed immediately following 481—Chapter 64.

This rule is intended to implement Iowa Code section 135C.2(3).

[**ARC 6972C**, IAB 4/5/23, effective 5/10/23]

481—64.61(135C) Federal regulations adopted—rights. Rescinded **ARC 6972C**, IAB 4/5/23, effective 5/10/23.

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)

481—64.63(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.

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.702, 135C.2(3), 135C.14, and 235E.2.

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Interpretive Guidelines****§440.150 Intermediate Care Facility Services, Other Than in Institutions for Mental Diseases****W101**

W101 is reassigned to §483.410(e). Section 442.251, the standard which requires that facilities meet the requirement for a State license, is redesignated to §483.410(e) and W101 is reassigned as well to afford a sense of continuity.

W102

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410 Condition of participation: Governing body and management (a) Standard: Governing body

W103

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(a) The facility must identify an individual or individuals to constitute the governing body of the facility.

Guidance §483.410(a)

If concerns are noted regarding the governing body, written documentation verifies that the facility has designated the individual or individuals to constitute the governing body and their titles.

W104

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(a)(1) The governing body must exercise general policy, budget, and operating direction over the facility.

Guidance §483.410(a)(1)

The governing body develops, monitors, and revises, as necessary, policies and operating directions which ensure the necessary staffing, training resources, equipment and environment to provide clients with active treatment and to provide for their health and safety.

Direction by the Governing Body includes areas such as health, safety, sanitation, maintenance and repair, and utilization and management of staff.

Condition level operational deficiencies may be associated with a failure by the Governing Body to exercise general direction of the facility.

W105

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(a)(2) The governing body must set the qualifications (in addition to those already set by State law, if any) for the administrator of the facility.

Guidance §483.410(a)(2)

The policies of the facility must include the qualifications of the administrator, and the qualifications are stated in the job description of the administrator.

W106

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(a)(3) The governing body must appoint the administrator of the facility.

Guidance §483.410(a)(3)

This appointment must be in writing.

(b) Standard: Compliance with Federal, State and local laws

§483.410(b) The facility must be in compliance with all applicable provisions of Federal, State and local laws, regulations and codes pertaining to:

Guidance §483.410(b)

The facility has no final adverse action by a Federal, State, or local authority. Such adverse actions include, but are not limited to fines, limitation on services that may be provided, or loss of licensure.

****Editor's Note:** Verbatim from federal regulations. Neither the Department nor the Iowa Administrative Code editors have changed the content of the guidelines.

The facility must be able to provide for review, current licenses and permits as well as applicable reports of inspections by State or local health authorities.

If a situation is identified indicating the provider may not be in compliance with Federal, State, or local law, refer that information to the authority having jurisdiction (AHJ) for follow-up actions. See W107, W108, or W109.

W107

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(b) health,

Guidance §483.410(b)

Reference the specific law, regulation, or code not met.

W108

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(b) safety, and

Guidance §483.410(b)

Reference the specific law, regulation, or code not met.

W109

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(b) sanitation.

Guidance §483.410(b)

Reference the specific law, regulation, or code not met.

(c) Standard: Client Records

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

W110

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(c)(1) The facility must develop and maintain a record keeping system that includes a separate record for each client and;

W111

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(c)(1) that documents the client's health care, active treatment, social information, and protection of the client's rights.

Guidance §483.410(c)(1)

The structure and content of a client's record must be an accurate, functional representation of the actual experience of the client in the facility.

The record should contain an accurate account of all information relevant to the client's health care, active treatment, social information and protection of the client's rights, such as communications, correspondence, program plans (to include both in-house and outside service programs), progress summaries, activity plans and activity participation, incidents, consent forms and all medical information.

If the records are maintained electronically, the facility staff should be able to access various parts of the record without difficulty. If they are unable to access components of the record upon request, then this may indicate a lack of training by the facility.

W112

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(c)(2) The facility must keep confidential all information contained in the clients' records, regardless of the form or storage method of the records.

Guidance §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 client, parent of a minor child, or legal guardian, and consistent with the advocate's right of access. Facility staff and consultants, hired to provide

services to the client, sign confidentiality agreements before having access to client records and should have access to only that portion of information that is necessary to provide effective responsive services to the client.

These agreements should be renewed according to the policies of the facility. The agreement may stipulate that the agreements are in place until either the facility or member terminates the agreement.

The facility has in place safeguards to ensure that access to all information regarding clients is limited to those clients designated by Health Insurance Portability and Accountability Act (HIPAA) requirements, the Developmental Disabilities Act, State law and facility policy.

The facility should prevent any instances of unauthorized access or dissemination. For example, the staff is observed to leave the client record (hard copy or electronic version) in the living room of the house when visitors or persons not authorized to access client records are present. Client records must be secured when staff is not present.

The facility must develop and follow procedures for maintaining the confidentiality of client information during transport to medical appointments or to other locations outside the facility.

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 companion record located in a secure location in the facility with a notation made in the primary record as to the location of confidential information. The facility must ensure that any client information provided to day services programs is maintained confidential.

The sharing of client specific information with members of the "specially constituted committee" required by §483.440(f)(3), who are not affiliated with the agency, does not violate a client's right to have information about him or her kept confidential. The committee must have relevant information to function properly.

Facility confidentiality safeguards include the development and implementation of written policies to assure that members of the specially constituted team maintain confidentiality. Such processes may include signed confidentiality agreements. These agreements should be renewed according to the policies of the facility. The agreement may stipulate that the agreements are in place until either the facility or member terminates the agreement.

W113

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(c)(3) The facility must develop and implement policies and procedures governing the release of any client information, including consents necessary from the client, or parents (if the client is a minor) or legal guardian.

Guidance §483.410(c)(3)

The facility develops and follows written policies governing the release of client information.

Release of any personally identifiable information does not occur unless consent(s) is obtained prior to the release.

These policies must address at a minimum who must give consent for the release of information from records. The policy and procedures should account for other situations involving the release of client information, such as:

- who should be notified when records have been released;
- procedures to be followed with subpoenas;
- time frames for providing requested information; and
- information regarding a client's HIV status may not be released without specific consent and may not be in the record if that consent has not been given.

W114

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(c)(4) Any individual who makes an entry in a client's record must make it legibly, date it, and sign it.

Guidance §483.410(c)(4)

Illegible writing in hard copy records can contribute to communication deficits among staff. Illegible writing which cannot be easily interpreted by facility staff upon surveyor request may constitute a safety issue.

Electronic signatures are acceptable in the electronic record system.

W115

§483.410(c)(5) The facility must provide a legend to explain any symbol or abbreviation used in a client's record.

W116

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(c)(6) The facility must provide each identified residential living unit with appropriate aspects of each client's record.

Guidance §483.410(c)(6)

"Appropriate" means those parts of each client's record are most likely (or known) to be needed by the residential staff to carry out the client'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 client; to contact family or emergency contacts, and to provide anything else necessary to the staff's ability to work on behalf of the client.

The staff of the residential living unit has, and can access, all information which is relevant to implementing client program plans, appropriate care of, interaction with, and provision of services for the client.

(d) Standard: Services provided under agreements with outside sources

W117

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(d)(1) If a service required under this subpart is not provided directly, the facility must have a written agreement with an outside program, resource, or service to furnish the necessary service, including emergency and other health care.

Guidance §483.410(d)(1)

If a service is not provided directly, there must be a written agreement for such services.

Written agreements are required for emergency services such as dentists and pharmacies. For those services that require a visit to a hospital, the Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) typically utilizes services from an emergency department of the hospital, thus no written contract is required.

Federal statute (P.L. 94-142) requires all school-aged children to receive a free and appropriate school education. Therefore, a written agreement between ICF/IIDs and public schools is not necessary.

W118

(d)(2)(i) Contain the responsibilities, functions, objectives, and other terms agreed to by both parties; and

W119

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(d)(2)(ii) Provide that the facility is responsible for assuring that the outside services meet the standards for quality of services contained in this subpart.

W120

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(d)(3) The facility must assure that outside services meet the needs of each client.

Guidance §483.410(d)(3)

Outside services are any services needed by the clients and not provided directly by the facility (hospital visits, dental visits, day program services, etc.).

Programs and services must be coordinated between the facility and the outside service, and foster consistency of implementation across settings of teaching strategies and behavior management.

The facility monitors outside services on an ongoing basis to ensure that services provided are consistent with the needs of each client as identified in the Individual Program Plan (IPP). For example, if the facility is implementing a behavior management or a communication program for the client, it is shared with the outside program and implemented by the outside program (workshop, day program, etc.) and the outside program agrees to incorporate it into their day program. At periodic intervals, the facility staff visit or communicate with the outside program to verify consistency across the two settings.

With outside resources, it is the responsibility of the facility to assure that the services are provided in a safe clean environment, by appropriately qualified professions, and any untoward outcome of services are promptly addressed.

If, in spite of attempts by the facility to assure compliance, the outside program does not implement the program for the client, then the facility remains responsible for the lack of active treatment.

W121

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(d)(4) If living quarters are not provided in a facility owned by the ICF/IID, the ICF/IID remains directly responsible for the standards relating to physical environment that are specified in §483.470(a) through (g), (j) and (k).

Guidance §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.

(e) Standard: Licensure**§483.420(a) Standard: Protection of Clients' Rights**

The facility must ensure the rights of all clients. Therefore, the facility must

Guidelines §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.

§483.410(e) Standard: Licensure**W101**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.410(e) The facility must be licensed under applicable State and local law.

Guidance §483.410(e)

The facility has a current, valid State license when required under State law.

W122

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420 Condition of participation: Client protections

(a) Standard: Protection of clients' rights

§483.420(a) The facility must ensure the rights of all clients. Therefore the facility must

Guidance §483.420(a)

The facility must ensure the client's rights and does not wait for him or her to claim a right. This obligation exists even when the client is less than fully competent and requires that the facility is actively engaged in activities which result in the protection of the client's rights, advocacy for individual clients who have no family or an inactive family, and training programs for clients and staff on the understanding and protection of client rights.

W123

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(1) Inform each client, parent (if the client is a minor), or legal guardian, of the client's rights and the rules of the facility;

Guidance §483.420(a)(1)

The obligation to inform requires that the facility presents information on rights to the client, his or her family or his or her legal guardian in a manner and form which they can understand. In most instances, family means parent. However, in those instances where parents are deceased or choose not to be active in the client's life and there is another family member who does wish to be active, but is not the legal guardian, this family member should be informed of the client's rights. Printed materials should be provided in understandable terms and provided in the language necessary to ensure understanding. Specialized methods, as indicated, should be provided for communication with clients, families or legal guardians with hearing or vision impairment.

Pro-active assertion of client rights includes, but is not limited to:

- Signed evidence that the client, his or her family and/or his or her legal guardian have been informed of the client's rights, and
- Evidence that the communication of these rights were provided at the client's level of comprehension, and in the language understandable to the client.

The obligation to inform also requires that the facility make some determination of whether the client and his or her family, or legal guardian understood the rights presented and made additional efforts to communicate the rights if the rights were not understood.

If the facility has written "rules of the facility", these rules must be communicated to the client, their family and or legal guardians at the time of admission and must not be in conflict with any of the rights listed in 42 CFR 483.420 (a) (1-13).

W124

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(2) Inform each client, parent (if the client is a minor), or legal guardian, of the client's medical condition, developmental and behavioral status, attendant risks of treatment, and of the right to refuse treatment;

Guidance §483.420(a)(2)

Clients, their families or legal guardians are promptly informed of any change in the client's medical or behavioral needs that requires immediate alteration to programmatic or medical intervention. Promptly is defined by the level of severity of the alteration. In each case, they must also be informed of the attendant risks of any recommended treatments or interventions and of their right to refuse treatment, training or services.

If parents or legal guardians wish for other members of the client's family to be informed of such changes, they must put this permission in writing.

The communication of this information must be provided in the manner and language understood by the client or their family or legal guardian (language boards, sign language, etc.).

The term "attendant risks of treatment" describes the risk vs. risk and risk vs. benefit associated with the treatment. These risks include possible side effects, other complications from treatments including medical and drug therapy, unintended consequences of treatment, other behavioral or psychological ramifications arising from treatment, etc.

The facility actively attempts to engage clients who refuse to participate in active treatment. While the regulation recognizes the client's right to refuse treatment, persistent refusal that impacts the health and safety of the client and/or others, or the ability to provide overall active treatment, may result in facility's consideration of alternative placements for the client. It is expected, however, that the facility has assessed the reason for refusal, and developed and implemented all possible interventions to engage the client in active treatment programs prior to referring the client to another therapeutic setting.

A client, his or her family member, or legal guardian 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, if acceptable alternatives are available. The client's preference about alternatives should be elicited and considered in deciding on the course of treatment. If the client, family member, or legal guardian 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 clients, the client himself or herself, and if they can continue to provide services to the client consistent with these regulations.

If the facility is unable to provide services to a client due to consistent refusal to participate, they must weigh all options including an involuntary discharge. Involuntary discharge must be for good cause (see 483.440(b)(4)(i)).

When a client is considered for participation in experimental research the client, his/her family and/or legal guardian must be fully informed of the nature of the experiment (e.g., what medications or physical interventions will be utilized, the length of the research, any possible side effects and how the information from the research will be utilized). Information regarding the possible consequences of participating or not participating must be provided to the client, family member or legal guardian. The written consent of the client, his/her family or legal guardian must be received prior to participation. For a client who is a minor or who has been adjudicated as incompetent, the written

informed consent of the parents of the minor or the legal guardian is required. The signed, informed consent documentation must be in compliance with HHS Guidelines for Research Involving Human Subjects. The signed consent must also include a clear discussion of what treatments will be included in the research, the time limits for the research and should clearly inform the client, family member or legal guardian that the client may end participation at any time without fear of recrimination. If the research protocol indicates that clients receive compensation, then clients are compensated per the protocol.

Any research must be reviewed and approved by the Specially Constituted Committee. See W263.

W125

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(3) Allow and encourage individual clients to exercise their rights as clients of the facility, and as citizens of the United States, including the right to file complaints, and the right to due process;

Guidance §483.420(a)(3)

To the extent that a client is able, choices are made on his/her own. Each client has autonomy of decision making and choice.

They are free to move about without limitations imposed due to staff preferences or staff convenience.

Clients are not restricted without due cause or due process.

To the extent that the client is able to make decisions for him or herself, it is inappropriate to delegate the person's right to others (e.g. parents, family members, etc.).

The facility has an obligation to assure client health and safety and must balance that obligation with the rights of clients.

If the facility has implemented a restriction, the following should be in place:

- An assessment supporting the need for the restriction;
- An individualized behavior plan to reduce the need for the restriction has been developed and implemented;
- A written informed consent for the behavior plan which includes the restriction;
- Approval of the Specially Constituted Committee; and
- Monitoring by the Committee of the progress of the training program, designed to reduce and eventually eliminate the restriction.

Clients, families, and legal guardians have the right to register a complaint with the facility and the State Survey Agency. If so, the facility must respond promptly and appropriately. The facility must ensure protection of the client from any form of reprisal or intimidation as a result of a complaint or grievance reported by the client, family, or legal guardian.

Issues involving the exercise of constitutional rights such as voting should be addressed as a component of the IPP when the Interdisciplinary Team (IDT) determines a need for training. Clients who have been adjudged to need guardianship or have been assessed as needing assistance to advocate for themselves should receive assistance or support so they may exercise their rights as citizens of the United States.

W126

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(4) Allow individual clients to manage their financial affairs and teach them to do so to the extent of their capabilities;

Guidance §483.420(a)(4)

The regulation is clear that in those cases where a client already possesses the skills necessary to independently manage their own financial affairs, the facility will allow the client to continue to do so. Formal training in financial management must be provided for all other clients in the facility to the extent of their capabilities. The regulation places the responsibility for determining the extent of the client's capabilities in this matter upon an assessment and interdisciplinary process within the facility.

To reach a determination as to whether a money management program is appropriate, the facility IDT uses the comprehensive functional assessment (CFA) to evaluate the ability of each client to participate in such a program. Under 42 C.F.R. 483.440(c)(3), the team evaluation must establish, through documentation, that the IDT considers all

of the objective data within the assessment in reaching their determination, especially the identification of client skills which can be used across training programs. Examples of assessment findings that may be considered by the IDT include skills that can be cross- utilized in training programs such as:

1. Fine motor coordination;
2. The ability to make choices;
3. The ability to identify preferences; and
4. Cognitive abilities including tracking, attention span, communication, and the client's ability to understand the cause and effect. (The client understands of cause and effect is significant in the determination.)

Money management includes a broad spectrum of programs with varying levels of participation by the client ranging from the use of choice in money expenditures, to an understanding of the concept of money, and ultimately to actual money handling and budgeting. The IDT must not conclude that a money management program is inappropriate based solely upon the level of intellectual or physical disability of the client.

The CFA must be reviewed at least annually per 42 C.F.R.483.440(f)(2). As a part of this annual review, a client's ability to participate in money management will also be reviewed. The annual review should always include an update to the CFA and take into consideration any changes in the client's circumstances since the last IPP. The need for a formal money management program must be addressed in every client's IPP by the IDT on an annual basis.

The determination of the appropriateness of a formal money management program is made by the IDT and must be based upon a CFA. The IDT discussions resulting in that determination must be established through documentation in the client's IPP.

W127

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(5) Ensure that clients are not subjected to physical, verbal, sexual or psychological abuse or punishment;

Guidance §483.420(a)(5)

Identification of patterns or isolated instances of physical, verbal, sexual or psychological abuse or punishment without prompt identification and corrective action by the facility would result in a non-compliance determination for this Standard and Condition level non-compliance.

The facility must develop and implement systems that protect clients from all forms of abuse, neglect, or mistreatment, including client to client abuse, neglect, or mistreatment.

1. The facility is expected to ensure that staff possess and demonstrate needed competencies to effectively and appropriately interact with clients.

2. The facility must monitor to assure that systems are effectively implemented and the facility takes immediate actions to address circumstances where abuse, neglect, or mistreatment have occurred and prevent reoccurrence.

3. The facility must be organized in such a manner as to proactively assure clients are free from any threat to their physical and psychological health and safety.

4. The facility must act to prevent physical, verbal, sexual or psychological abuse. If the facility fails to implement appropriate corrective action, the potential of additional threats to the clients remain at the facility.

"Threat", for the purposes of this guideline, is considered any condition/situation which could cause or result in severe, temporary or permanent injury or harm to the mental or physical condition of clients, or in their death.

"Abuse", for the purposes of this guideline, is the willful infliction of injury, unreasonable confinement, intimidation or punishment with the resulting physical harm, pain or personal anguish.

Physical abuse refers to any action intended to cause physical harm or pain, trauma or bodily harm (e.g., hitting, slapping, punching, kicking, pinching, etc.). It includes the use of corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment.

Verbal abuse refers to any use of insulting, demeaning, disrespectful, oral, written or gestured language directed towards and in the presence of the client. Psychological abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion and intimidation (e.g. living in fear in one's own home). Since many clients residing in ICF/IIDs are unable to communicate feelings of fear, humiliation, etc. associated with abusive episodes, the assumption is made that any actions that would usually be viewed as psychologically or verbally

abusive by a member of the general public, would also be viewed as abusive by the client residing in the ICF/IID, regardless of that client's perceived ability to comprehend the nature of the incident.

Sexual abuse includes any incident where a client is coerced or manipulated to participate in any form of sexual activity for which the client did not give affirmative permission (or gave affirmative permission without the attendant understanding required to give permission) or sexual assault against a client who is unable to defend him/herself.

The facility must implement, through policies, oversight and training, safeguards to ensure that clients are not subjected to abuse by anyone including, but not limited to, facility staff, consultants or volunteers, staff of other agencies serving the client, family members or legal guardians, friends, other clients, or the general public.

The facility must take whatever action is necessary to protect the clients residing there. For example, if a facility is forced by court order or arbitration rulings to retain or reinstate an employee found to be abusive, the facility must take measures to protect the clients of the facility (such as assigning the employee to an area where there is no contact with clients).

W128

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(6) Ensure that clients are free from unnecessary drugs and physical restraints and are provided active treatment to reduce dependency on drugs and physical restraints;

Guidance §483.420(a)(6)

The facility must implement an aggressive active treatment program, which includes appropriate replacement behaviors, to address the reduction/elimination of physical restraints and drugs to manage behaviors.

For purposes of this Guideline drugs to manage behavior are "unnecessary" if there is evidence the drugs are being used:

- In excessive dose (duplicate therapy);
- For excessive duration;
- Not monitored adequately;
- Without adequate indications for its use;
- With adverse consequences which indicate the dose should be reduced or discontinued; or
- Any combination of the reasons listed above.

The long term use of a drug/physical restraint to manage behavior combined with one or more of the following may indicate unnecessary use:

- The client's developmental and/or behavioral needs are not being met and the appropriateness of less restrictive approaches to manage inappropriate behaviors should be questioned;
- Staff behavior may be prompting behaviors in clients 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;

Restraints applied for behaviors when less restrictive measures have not been tried or have been tried and found to be just as effective.

W129

(Rev. 144, Issued: 08-14-15, Effective: 08-14-15, Implementation: 08-14-15)

§483.420(a)(7) Provide each client with the opportunity for personal privacy and

Guidance §483.420(a)(7)

The facility must provide areas within the living area in which the client can have time to be alone, when appropriate, and to have privacy (their conversations cannot be overheard) for personal interactions/activities. There should be a location where the client can meet privately with family and/or friends and a telephone available where he/she can hold private telephone conversations.

Personal privacy for clients also includes the right to have certain personal information about them kept confidential. Staff should not discuss one client in front of others (clients, parents, legal guardians, visitors, etc.) and should not post personal information about clients in areas where other clients, families and the public can read the information.

Video/audio taping or live feed must not be used in place of or for the convenience of staff. The facility may install video/audio equipment for purposes of observing client/staff interactions. Video/audio equipment may only be installed in common areas (in no case may videotaping or live feed be done in bathrooms or areas where private visits are conducted). The clients, families and/or legal guardians of the clients residing in the areas where videotaping or live feed will occur must give informed consent for the installation and must be assured that no personal privacy will be jeopardized. The use of the equipment must be presented at and approved by the specially constituted committee for the facility prior to the installation of video or audio devices.

Motion sensors should not be considered cameras.

W130

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(7) ensure privacy during treatment and care of personal needs;

Guidance §483.420(a)(7)

Clients must be provided privacy during personal hygiene activities (e.g., toileting, bathing, dressing) and during medical/nursing treatments that require exposure of one's body.

People not involved in the care of the client should not be present without their consent while they are being examined or treated.

Whenever possible, the facility should be sensitive to clients' preferences for same sex care in private situations.

W131

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(8) Ensure that clients are not compelled to perform services for the facility and

Guidance §483.420(a)(8)

Clients are not required or expected to be a source of labor for a facility. The client must not be required or expected to do productive work for the facility, other than appropriate care of one's own personal space or shared responsibilities for common areas.

W132

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(8) ensure that clients who do work for the facility are compensated for their efforts at prevailing wages and commensurate with their abilities;

Guidance §483.420(a)(8)

"Work", as used in the regulation, means any directed activity, or series of related activities which results in a 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 whether the facility would be required to hire additional full or part-time staff (or pay overtime to existing staff) to perform the service the client is asked to perform.

Clients volunteering to do real work that benefits the facility should give informed consent for such practices and understand that by providing employable services they are able to be compensated. This does not preclude a client from helping out a friend or being kind to others. Self-care activities related to the care of one's own person or property are not considered "work" for purposes of compensation.

In general, participation in any household task which promotes greater independent functioning and assists the client to prepare for less restrictive setting (and which the client 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 clients, running personal errands).

"Compensated" means the client is provided with money or other forms of negotiable compensation for work (including work performed in an occupational training program) and such compensation is to be used at the client's discretion.

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 client who works in the

facility must be paid at least the prevailing minimum wage, unless 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 client performing “work”, as defined above, must be compensated in direct proportion to his or her output. The facility should utilize Department of Labor and/or Department of Vocational Rehabilitation formulas and techniques for determining rate of pay. A client’s pay is not dependent on the production of other clients when he or she works in a group.

When the client’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 clients on particular occupational activities or functions involves “real work” to be accomplished for the facility, the clients must be compensated based on ability. For example, if in the process of work training activities which involve learning to clean a floor, the floor for a particular building is cleaned and does not require further janitorial cleanup, then the client must be compensated for this activity at the prevailing wage.

W133

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(9) Ensure clients the opportunity to communicate, associate and meet privately with individuals of their choice,

Guidance §483.420(a)(9)

Privacy must be provided for both face-to-face interactions and electronic interactions.

The facility must provide opportunities for the client to communicate, through regular mail, telephone and/or electronic mail and meet in private with persons of their choice (e.g., friends from the community, family members, and advocates). There may be instances where legal guardians override the wishes of the client. In these instances, the facility should be actively working with the legal guardian and the client to reach the maximum agreeable level of interaction for the client.

Space must be provided for clients to receive visitors in reasonable comfort and privacy.

W134

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(9) and to send and receive unopened mail;

Guidance §483.420(a)(9)

Clients must be provided the opportunity to send/receive all types of mail unopened and read the contents themselves if able. If the staff has to open and read mail to the client, this should be done in a private place allowing the client as much participation as possible.

Clients who have their own electronic equipment must be provided the opportunity to send, receive, and read electronic mail with privacy.

W135

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(10) Ensure that clients have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within their individual program plans;

Guidance §483.420(a)(10)

Any restriction of telephone access must be explained in the IPP with a plan to advance the client’s access. For persons with hearing loss who could benefit, Text Telephone (TTY) services or other accommodations should be provided.

As with any other rights restriction, the restriction must be addressed in the IPP, written informed consent obtained, and the plan must be reviewed and approved by the specially constituted committee.

W136

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(11) Ensure clients the opportunity to participate in social, religious, and community group activities;

Guidance §483.420(a)(11)

Clients should be offered the opportunity to participate in various types of activities in the community (e.g., going to grocery stores, hair salons, restaurants, places of worship, pharmacies, community meetings and events) based on their interests and choices. The facility must make accommodations for physical issues such as hearing impairment and mobility limitations. In addition, clients should be taught the applicable skills to participate in their choice of activities to the fullest extent of their abilities.

It is not acceptable for all client activities to be provided in the facility.

When a client is identified to be on restriction from community integration opportunities, interview clients, families, legal guardians and staff to determine if due process was afforded for this restriction and whether the restriction is included in the IPP.

In the event of a court placement that restricts community access, due process does not apply.

There should be evidence that the facility assists and encourages all clients, regardless of functioning levels, to have input into the decisions on community integration activities.

It is not acceptable to require clients to attend unwanted activities due to staffing considerations.

W137

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(a)(12) Ensure that clients have the right to retain and use appropriate personal possessions and clothing, and

Guidance §483.420(a)(12)

Clients should have personal possessions and clothing which meet their needs, interests and choices.

Clients should have free access to their own possessions and clothing. When considering whether a client has free access to their personal possessions and clothing, ensure that physical limitations have been addressed.

Clients who are unable to access and use personal possessions and clothing appropriately are involved in programs to learn the necessary skills to do so.

In situations where the behavior of one or more clients in a living area prevents free access to personal possessions for each client, the facility must develop IPPs for the client with disruptive behavior. The facility must also ensure that during the implementation of this program plan that none of the other clients have their rights infringed upon. Clients should not be without personal possessions because of the behavior of others with whom they live.

All client possessions, regardless of their apparent value to others are treated with respect for what they may represent to the client. Where those choices include socially stigmatizing materials, the facility should provide learning opportunities to make more socially appropriate choices. The facility should encourage clients to use or display possessions of his or her choice in a culturally normative manner.

If a method for identifying personal effects is used, it should be inconspicuous and in a manner that will assist the client 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 a client with a physical disability to become more independent.

As appropriate, each client’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.

Clients 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 client access to them when the client chooses.

Clients are provided the opportunity, encouraged, and trained to use age-appropriate materials. The term “age-appropriate” refers to anything that reinforces recognition of the client as a person of a certain chronological age. Clients who choose to keep items traditionally used by children such as dolls or model cars are not an automatic citation. There must be evidence the facility is encouraging the client to use these possessions in a socially appropriate, non-stigmatizing manner. The facility’s environment must be furnished with materials and activities that will enhance opportunities for growth.

W138**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.420(a)(12) ensure that each client is dressed in his or her own clothing each day; and****Guidance §483.420(a)(12)**

Clothing such as pajamas, underwear, socks, hats, mittens/gloves, and coats should be the personal property of the client and not considered “stock” items. There should be no communal clothes. If clients are unable to do their own personal laundry the facility must ensure that clothing is properly laundered and returned to the appropriate client.

The staff of the facility should ensure that clients dress appropriately for the season and the occasion by implementing training programs or guidance for the client as indicated.

W139**§483.420(a)(13) Permit a husband and wife who both reside in the facility to share a room.****§483.420(b) Standard: Client Finances****(b)(1) The facility must establish and maintain a system that****W140****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.420(b)(1)(i) Assures a full and complete accounting of clients’ personal funds entrusted to the facility on behalf of clients; and****Guidance §483.420(b)(1)(i)**

All purchases made using client personal funds must be itemized in the accounting record with the exception of pocket money. Pocket money given to the client does not need to be itemized. Pocket money should be considered a nominal amount of five dollars or less at a time. Funds provided by the facility and dispensed to a client as part of a program to train the client in money management, and funds that are not entrusted to the facility (e.g., funds paid directly to the client’s representative payee) do not require accounting.

In those instances where a legal guardian or the individual client is in control of their personal funds, no accounting is necessary by the facility.

W141**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.420(b)(1)(ii) Precludes any commingling of client funds with facility funds or with the funds of any person other than another client.****Guidance §483.420(b)(1)(ii)**

If the facility elects to pool clients’ funds in an interest-bearing account, including common trust accounts, it is expected to know the interest separately accrued by each client, as part of its required accounting of funds. Interest accumulated to a client’s account belongs to the client, not the facility.

W142**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.420(b)(2) The client’s financial record must be available on request to the client, parents (if the client is a minor) or legal guardian.****Guidance §483.420(b)(2)**

Those persons having legal authority to access the accounting records for personal funds such as the client, parent, or legal guardians should be afforded access upon request unless there is documented rationale for withholding the information.

It is not necessary that a facility furnish an annual financial statement to the client, or the client’s parent or legal guardian, since the facility is already required to make the financial record available at any time upon request. The client, parent, and/or legal guardian, in turn, is free to choose to make the financial record available to anyone else.

(c) Standard: Communication with clients, parents, and guardians.**§483.420(c)****The Facility must –****W143**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(c)(1) Promote participation of parents (if the client is a minor) and legal guardians in the process of providing active treatment to a client unless their participation is unobtainable or inappropriate;

Guidance §483.420(c)(1)

The facility must maintain an on-going effort to communicate with parents, family members and/or legal guardians regarding the implementation of active treatment programs for the client. The facility encourages and engages parents, family members and legal guardians in the continued implementation of active treatment programs even while spending time outside of the facility setting.

“Unobtainable”, for the purposes of this guideline, means that the facility has made a good faith effort to seek parental or legal 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”, for the purposes of this guideline, means that behavior of the parent or legal guardian could be disruptive or detrimental to the client’s program outcome. In this case, determine what the facility has done to bring effective resolution to the problem.

W144

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(c)(2) Answer communications from clients’ families and friends promptly and appropriately;

Guidance §483.420(c)(2)

It is reasonable to expect that the facility will provide at least an interim response to inquiries from the client’s families and friends within 48 hours.

W145

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(c)(3) Promote visits by individuals with a relationship to the client (such as family, close friends, legal guardians and advocates) at any reasonable hour, without prior notice, consistent with the right of that client’s and other clients’ privacy, unless the interdisciplinary team determines that the visit would not be appropriate;

Guidance §483.420(c)(3)

Any limitations on visitors must be implemented as a result of IDT evaluation and discussion and be documented. This documentation should include evidence of approval from the specially constituted committee. Decisions to restrict a visitor for an individual client must be reviewed and re-evaluated each time the IPP is reviewed or at the client’s request. Broad restrictions on visitors such as times of the day or certain days of the week are a violation of this requirement.

W146

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(c)(4) Promote visits by parents or guardians to any area of the facility that provides direct client care services to the client, consistent with the right of that client’s and other clients’ privacy;

W147

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(c)(5) Promote frequent and informal leaves from the facility for visits, trips, or vacations; and

Guidance §483.420(c)(5)

The facility should assist and encourage the client to communicate with their families or legal guardians concerning possible outside visits and vacations as frequently as possible. When the client does schedule a trip or vacation, the facility must ensure that all necessary preparation is completed to facilitate the departure.

The facility should not sponsor or allow clients to take a particular type of trip that would jeopardize their safety or health without consultation with parents/legal guardians and/or the IDT.

W148

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(c)(6) Notify promptly the client’s parents or guardian of any significant incidents, or changes in the client’s condition including, but not limited to, serious illness, accident, death, abuse, or unauthorized absence.

Guidance §483.420(c)(6)

“Significant” incidents or changes in the client’s condition include serious injury, unusual seizure activity, hospitalization, serious illness, accident, death, allegations of abuse, neglect, or mistreatment, unauthorized absence, or any notifications the parent or legal guardian’s requests.

It is reasonable to expect the facility to contact the family or legal guardian of a client as soon as possible after an incident occurs, but no later than 24 hours after the incident. If notification is done via electronic mail, the facility must request a response from the e-mail recipient to confirm notification. Telephone notification must be accomplished by talking to the person directly. If a message is left, the facility must request a call back to confirm receipt of the notification.

Contact by letter may be utilized as follow up confirmation, but not be the initial, primary or sole mode of communication with the family or legal guardian.

If unable to contact the family or legal guardian, there should be evidence that the facility attempted to reach alternate emergency contacts.

Requests from clients who are their own guardian to limit notifications to their families must be honored.

(d) Standard: Staff treatment of clients.**W149**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(1) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of the client.

Guidance §483.420(d)(1)

The facility, through implementation of its policies, must set up a structure that screens and trains employees, protects clients and prevents, identifies, investigates and reports abuse, neglect and mistreatment of clients.

The policies must designate who (either by name or title) has the authority to act in the Administrator’s absence and take any immediate corrective actions necessary to assure a client’s safety such as removing a staff person from direct client contact.

“Mistreatment”, for the purposes of this guideline, includes behavior or facility practices that result in any type of client exploitation such as financial, physical, sexual, or criminal. Mistreatment also refers to the use of behavioral management techniques outside of their use as approved by the specially constituted committee and facility policies and procedures.

“Neglect” means failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness. Staff failure to intervene appropriately to prevent self- injurious behavior may constitute neglect. Staff failure to implement facility safeguards, once client to client aggression is identified, may also constitute neglect.

Refer to W127 for definitions of abuse.

W150

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(1)(i) Staff of the facility must not use physical, verbal, sexual or psychological abuse or punishment.

W151

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(1)(ii) Staff must not punish a client by withholding food or hydration that contributes to a nutritionally adequate diet.

W152

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(1)(iii) The facility must prohibit the employment of individuals with a conviction or prior employment history of child or client abuse, neglect or mistreatment.

Guidance §483.420(d)(1)(iii)

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 have

been directed toward a child or a client/resident/patient of a health care facility in order for the prohibition of employment to apply.

No one with a conviction or substantiated allegation of child or client abuse, neglect or mistreatment regardless of employment date, is employed by the facility. This requirement also applies to acts of abuse, neglect or mistreatment committed by a current ICF/IID employee outside the jurisdiction of the ICF/IID (e.g., in the community or in another health care facility). The facility must follow state guidelines or requirements for background checks to assure that they make every effort to check new employee's background.

Where the facility has terminated an employee based upon confirmation that abuse, neglect or mistreatment occurred during the employee's performance, and the termination decision was overturned by either arbitration finding or a court finding, the employee must be returned to a position which does not involve direct contact between that employee and clients of the facility.

A person 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/IID. 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, elder, or client (resident, patient) abuse, neglect or mistreatment. Therefore, conviction for abusing one's own child is also a reason employment would be prohibited.

W153

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(2) The facility must ensure that all allegations of mistreatment, neglect or abuse, as well as injuries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures.

Guidance §483.420(d)(2)

Injuries of unknown source that give rise to a suspicion that they may be the result of abuse or neglect, should be reported immediately.

An injury should be reported as an "injury of unknown source" when:

- The source of the injury was not witnessed by any person and the source of the injury could not be explained by the client; and
- The injury raises suspicions of possible abuse or neglect because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) or the number of injuries observed at one particular point in time or the incidence of injuries over time.

It is important to note that members of the ICF/IID population are a mobile population and lead active lives. Therefore, they experience normal day-to-day bumps and minor abrasions as they go about their lives. These minor occurrences which are not of serious consequence to the individual and do not present as a suspicious or repetitive injury (as discussed above) should be recorded by the facility staff once they are aware of them and follow-up should be conducted as indicated. For injuries that do not rise to the level of reportable "injuries of unknown source", the facility should follow its policies and procedures for incident recording, investigation, and tracking.

The facility must immediately report any suspicious injuries of unknown source and all allegations of mistreatment, neglect or abuse to a client residing in the facility regardless of who is the alleged perpetrator (e.g., facility staff, parents, legal guardians, volunteer staff from outside agencies serving the client, neighbors, or other clients, etc.).

If state law requires reporting to an agency or entity other than the administrator, the Centers for Medicare & Medicaid Services (CMS) expects the administrator to be notified as well, in order to ensure facility response to promptly safeguard the client(s).

For the purposes of this regulation "immediately" means there should be no delay between staff awareness of the occurrence and reporting to the administrator or other officials in accordance with State law unless the situation is unstable in which case reporting should occur as soon as the safety of all clients is assured.

W154

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(3) The facility must have evidence that all alleged violations are thoroughly investigated and
Guidance §483.420(d)(3)

In the absence of any pre-survey information that would indicate the need for a more thorough review of reports of investigation, review 5 percent of the total client investigations for the last three (3) months (but no less than 10).

A thorough investigation includes at a minimum:

- The collection of all interviews, statements, physical evidence and any pertinent maps, pictures or diagrams;
- Review of all information;
- Resolution of any discrepancies;
- Summary of conclusions; and
- Recommendations for action both to safeguard all the clients during the investigation and after the completion

of the report.

If patterns of possible abuse, mistreatment or neglect are identified, or the incident report logs for the past three (3) months indicate an extremely high incident rate, then a full review of the incidents for the past three (3) months should be completed.

W155

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(3) must prevent further potential abuse while the investigation is in progress.

Guidance §483.420(d)(3)

The facility must take all measures necessary to protect the client, including removal of the staff from working with the client if indicated. See W154.

W156

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(4) The results of all investigations must be reported to the administrator or designated representative or to other officials in accordance with State law within five working days of the incident and,

Guidance §483.420(d)(4)

Some states require that allegations of abuse must be reported to the police. A police investigation may take longer than five (5) working days. Their investigation does not change the requirement that the facility must complete an internal investigation report of findings within the five day timeframe. When outside authorities are involved, the facility will still be required to complete their investigation within five days to the extent authorized by such entities. “Working days” means Monday through Friday, excluding state and Federal holidays.

W157

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.420(d)(4) if the alleged violation is verified, appropriate corrective action must be taken.

Guidance §483.420(d)(4)

The facility is required to ensure that clients residing in the facility are not subjected to physical, verbal, sexual or psychological abuse or punishment.

Appropriate corrective action is required for findings of abuse, neglect or mistreatment by other clients residing in the facility, staff of outside agencies, parents or any other person, and for injuries to clients resulting from controllable environmental factors.

If the facility receives allegations of abuse, neglect, or mistreatment of a client during out of facility visits with their family, they must report these allegations to the appropriate state authority for investigation. The facility does not have to conduct an internal investigation regarding the alleged violation.

Appropriate corrective action is defined as that action which is reasonably likely to prevent the abuse, neglect, mistreatment or injury from recurring.

This regulation does not require staff termination as the only appropriate corrective action.

The corrective action imposed by the facility is commensurate with the violation.

When a facility is forced to re-hire a staff person, determined by the facility investigation to have been responsible for abuse, neglect, or mistreatment, the facility continues to be responsible for ensuring the health and safety of the clients, and ensures that those staff members do not work directly with clients.

W158

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430 Condition of participation: Facility staffing.

(a) Standard: Qualified intellectual disability professional

W159

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(a) Each client's active treatment program must be integrated, coordinated and monitored by a qualified intellectual disability professional who –

Guidance §483.430(a)

The position of qualified intellectual disability professional (QIDP) is unique to the ICF/IID program. This position can be central to the overall responsiveness and effectiveness of an active treatment program. Whether a supervisory or non-supervisory position, the QIDP is responsible to:

- Orchestrate all facets of the active treatment effort, including the IDT creation of relevant IPPs tailored to meet individual client needs;
- Effectively coordinate internal and external program services and supports to facilitate the acquisition of client skills and adaptive behaviors; and
- Promote competent interactions of residential staff with clients in program implementation and behavior management.

Breakdowns in the provision of needed services does not automatically equate with deficient practice with QIDP regulations. Non-compliance with QIDP regulations exist where the facility has failed to provide a QIDP or sufficient numbers of QIDPs to effectively perform these required functions or the QIDP(s) has failed to assertively attempt to integrate, coordinate and/or monitor each client's active treatment program.

Elements of integrating, coordinating and monitoring active treatment programs include:

- Routinely observing clients across settings in program areas to assess effectiveness of program implementation and consistency of training effort to determine effectiveness of IPPs and making timely modifications to facilitate achieving desired skills or goals.
- Routinely interacting with program staff across settings to assist in determining the effectiveness and continued relevance of program plans in meeting identified client needs.
- Determining the need for program revision based on client performance.
- Identifying inconsistencies in training approaches or programs not being implemented as written and facilitating the resolution of these inconsistencies.
- Assures follow-up occurs for any recommendation for services, equipment or programs so that needed services and supplies are provided in a timely manner to meet the client's needs.

The number of QIDPs will vary depending on such factors as the number of clients the facility serves, the complexity of needs manifested by these clients, the number, qualifications and competencies of additional professional staff members, and whether or not other duties are assigned to the QIDP function.

The QIDP function may not be delegated to other employees even though the QIDP co- signs their work.

W160

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(a)(1) Has at least one year of experience working directly with persons with intellectual disability or other developmental disabilities; and

Guidance §483.430(a)(1)

“Experience” means providing professional or direct services, either paid or volunteer, in a setting that serves persons with intellectual disabilities. The experience working directly with persons with intellectual or other developmental disabilities can be obtained prior to or after obtaining the qualifying degree or credentials.

§483.430(a)(2) Is one of the following:**W161****(a)(2)(i) A doctor of medicine osteopathy.****W162****(a)(2)(ii) A registered nurse.****W163****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.430(a)(2)(iii) An individual who holds at least a bachelor's degree in a professional category specified in paragraph (b)(5) of this section****Guidance §483.430(a)(2)(iii)**

The individual must have at least a bachelor's degree in one of the professions listed in §483.430(b)(5)(i-xi)

(b) Standard: Professional program services**W164****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.430 (b)(1) Each client must receive the professional program services needed to implement the active treatment program defined by each client's individual program plan.****Guidance §483.430 (b)(1)**

The effectiveness of the active treatment effort is dependent on a facility's assembly of a competent team of professional program staff, with knowledge of contemporary care practices in intellectual disabilities specific to their field of expertise, that work cooperatively as members of an IDT. The facility is responsible for the acquisition of professional staff necessary to provide direct and indirect professional services to meet client needs.

Professional program services are those services that meet the needs identified by a client's CFA that must be provided by a member of a vocation founded upon specialized education/training.

Professional staff services also include on-going monitoring of the effectiveness of programs and plans developed by professional staff but implemented by non-professional staff.

Indirect professional staff services also include on-going, technical support to staff implementing these programs as well as timely assessment of the need for modification of the program with appropriate communication to the QIDP and IDT.

The needs identified in the initial CFA, as required in §483.440(c)(3)(v), should guide the team in deciding if a particular professional's 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 clients' needs are aggressively and competently addressed. Some examples in which professional expertise may overlap include, but are not limited to:

- Physical development and health: nurse, dietitian, pharmacist.
- Nutritional status: nurse, nutritionist or dietitian.
- Sensorimotor development: educators, recreation therapists, and occupational therapist, physical therapist.
- Affective (emotional) development: special educators, social workers, psychologists, psychiatrists, mental health counselors, rehabilitation counselors, behavior therapists, behavior management specialists, behavior analyst, and medical staff.
- Speech and language (communication) development: speech-language pathologists, special educators for people who are deaf or hearing impaired, and medical staff.
- 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 clients who are hearing impaired and medical staff.
- Cognitive development: teachers (if required by law, e.g., school aged children, or if pursuit of GED is indicated), behavior analysts, psychologists, speech-language pathologists.

- Vocational development: 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, behavior analysts, psychologists (specialized training needs for social skill development).
- Adaptive behaviors or independent living skills: special educators, occupational therapists, behavior analysts, and medical staff.

W165**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.430(b)(1) Professional program staff must work directly with clients****Guidance §483.430(b)(1)**

Examples of professional staff working directly with clients include: performing professional assessments of clients, provision of direct support and services and periodic monitoring by the professional of the client working on the program. The amount and degree of direct care that professionals must provide will depend on the needs of the client and the ability of other staff to effectively work with clients on a day-to-day basis.

For those services that must be provided by a professional due to either law, licensure or registration, the client receives the services directly from the professional. Professionals may deliver services through the supervision and direction of subordinates where provided by law.

W166**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.430(b)(1) and with paraprofessional, nonprofessional and other professional program staff who work with clients.****Guidance §483.430(b)(1)**

Paraprofessionals are persons in various occupational fields who are trained to assist professionals but are themselves not licensed at the professional level.

Examples of “working with” these other staff may include, but not be limited to:

- Modeling the correct technique for interacting with clients or implementing a specific program objective.
- Designing residential activity programs and teaching staff how to implement them.
- Conducting classes on discipline specific topics.
- Answering questions of staff related to program implementation or specific behavioral management issues.
- Monitoring active treatment areas to identify program implementation or staff-client interaction issues.

W167**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.430(b)(2) The facility must have available enough qualified professional staff to carry out and monitor the various professional interventions in accordance with the stated goals and objectives of every individual program plan.****Guidance §483.430(b)(2)**

There should be sufficient professional staff in the facility to ensure that:

- needed assessments by professionals are completed timely;
- direct professional services are provided when indicated;
- clients are receiving interventions as specified in the IPP;
- client outcomes are being monitored by the professional;
- assessments and outcomes are being communicated to the IDT; and
- professional staff are available to consult with team members when needed.

W168**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.430(b)(3) Professional program staff must participate as members of the interdisciplinary team in relevant aspects of the active treatment process.****Guidance §483.430(b)(3)**

When a professional does an assessment and determines there are client needs which become incorporated into the IPP, with a current prioritized objective, the professional should actively participate on the IDT. This participation may be through written reports or verbally while attending the IPP meeting or participating via telephone or other electronic means, to provide team members with the opportunity to review and discuss information and recommendations relevant to the client's needs, and to reach decisions as a team, rather than individually, on how best to address those needs.

W169

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(4) Professional program staff must participate in on-going staff development and training in both formal and informal settings with other professional, paraprofessional, and nonprofessional staff members.

Guidance §483.430(b)(4)

Professional program staff provides various types of training to staff as indicated by the IPP and IDT.

Formal training: a specific training done at the time a program is implemented or updated by the professional, with all staff who works with the client.

Informal training: when the professional observes the staff not correctly implementing a program, the professional provides informal guidance on correct implementation.

Training on programs that apply to multiple clients: when a particular program applies to several clients in a facility, a professional may provide training to several staff on a particular topic that applies to multiple clients (such as safe transfer techniques).

Professional staff of the facility should participate in ongoing training such as conferences and workshops to maintain current standards of practice in the field of intellectual and developmental disabilities as required by their professional licensure or certification.

W170

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5) Professional program staff must be licensed, certified, or registered, as applicable, to provide professional services by the State in which he or she practices. Those professional program staff who do not fall under the jurisdiction of State licensure, certification, or registration requirements, specified in §483.410(b), must meet the following qualifications:

W171

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(i) To be designated as an occupational therapist, an individual must be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body.

Guidance §483.430(b)(5)(i)

If a professional is not nationally certified, they would have to show evidence they completed the degree and field work in their designated field and are eligible to sit for the national exam.

The American Occupational Therapy Association is now known as the National Board for Certified Occupational Therapists (NBCOT). There is no "other comparable body."

Eligibility means the professional must have completed a degree in their designated field, completed all field work required for a license, must meet licensure requirements in the state they are practicing in, and are registered or certified nationally as applicable.

W172

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(ii) To be designated as an occupational therapy assistant, an individual must be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or another comparable body.

Guidance §483.430(b)(5)(ii)

If a professional is not nationally certified, they would have to show evidence they completed the degree and field work in their designated field and are eligible to sit for the national exam.

The American Occupational Therapy Association is now known as the National Board for Certified Occupational Therapists (NBCOT). There is no “other comparable body.”

Eligibility means the professional must have completed a degree in their designated field, completed all field work required for a license, must meet licensure requirements in state they are practicing in, and are registered or certified nationally as applicable.

W173

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(iii) To be designated as a physical therapist, an individual must be eligible for certification as a physical therapist by the American Physical Therapy Association or another comparable body.

Guidance §483.430(b)(5)(iii)

If a professional is not nationally certified, they would have to show evidence they completed the degree and field work in their designated field and are eligible to sit for the national exam.

Eligibility means the professional must have completed a degree in their designated field, completed all field work required for a license, must meet licensure requirements in state they are practicing in, and are registered or certified nationally as applicable.

W174

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(iv) To be designated as a physical therapy assistant, an individual must be eligible for registration by the American Physical Therapy Association or be a graduate of a two year college-level program approved by the American Physical Therapy Association or another comparable body.

Guidance §483.430(b)(5)(iv)

If a professional is not nationally certified, they would have to show evidence they completed the degree and field work in their designated field and are eligible to sit for the national exam.

Eligibility means the professional must have completed a degree in their designated field, completed all field work required for a license, must meet licensure requirements in State they are practicing in, and are registered or certified nationally as applicable.

W175

§483.430(b)(5)(v) To be designated as a psychologist, an individual must have at least a master’s degree in psychology from an accredited school.

§483.430(b)(5)(vi) To be designated as a social worker, an individual must--

W176

§483.430(b)(5)(vi)(A) Hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or

§483.430(b)(5)(vi)(B) Hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body.

§483.430(b)(5)(vii) To be designated as a speech-language pathologist or audiologist, an individual must--

W177

§483.430(b)(5)(vii)(A) Be eligible for a Certificate of Clinical Competence in Speech-Language Pathology or Audiology granted by the American Speech-Language-Hearing Association or another comparable body; or

§483.430(b)(5)(vii)(B) Meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification.

W178

§483.430(b)(5)(viii) To be designated as a professional recreation staff member an individual must have a bachelor’s degree in recreation or in a specialty area such as art, dance, music or physical education.

W179

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(ix) To be designated as a professional dietitian, an individual must be eligible for registration by the American Dietetics Association.

Guidance §483.430(b)(5)(ix)

If a professional is not nationally registered as a dietician, they would have to show evidence they completed the degree and field work in their designated field and are eligible to sit for the national exam.

W180

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(x) To be designated as a human services professional an individual must have at least a bachelor's degree in a human services field (including, but not limited to: sociology, special education, rehabilitation counseling, and psychology).

Guidance §483.430(b)(5)(x)

Human Services is a diverse field focused on improving the quality of life of clients in communities in which the professional serves. A human services professional works directly with the population being served. Surveyors should see evidence that a human service professional has a bachelor's degree at a minimum.

W181

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(b)(5)(xi) If the client's individual program plan is being successfully implemented by facility staff, professional program staff meeting the qualifications of paragraph (b)(5)(i) through (x) of this section are not required-

(A) Except for qualified intellectual disability professionals;

(B) Except for the requirements of paragraph (b)(2) of this section concerning the facility's provision of enough qualified professional program staff; and

(C) Unless otherwise specified by State licensure and certification requirements.

Guidance §483.430(b)(5)(xi)

An individual client program may not require that professional staff perform all of the services as outlined by the IPP (e.g. the direct support staff may be trained by the professional to safely and effectively carry out the designed program), however, any specialized therapy must involve evaluation, program development, and re-assessment by the appropriate professional at periodic intervals.

(c) Standard: Facility staffing**W182**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(c)(1) The facility must not depend upon clients or volunteers to perform direct care services for the facility.

Guidance §483.430(c)(1)

The facility must have sufficient staff to provide needed care and services without the use of volunteers or enlisting the help of clients residing in the facility to perform the duties normally performed by facility staff.

The facility may not rely on volunteers in lieu of paid staff to fill required staff positions and perform direct care services. Volunteers are permissible, but must be in addition to the number of paid staff required to carry out a function. Volunteers should have an orientation to the policies and procedures of the facility and oversight is required by facility staff.

W183

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(c)(2) There must be responsible direct care staff on duty and awake on a 24-hour basis, when clients are present, to take prompt, appropriate action in case of injury, illness, fire or other emergency, in each defined residential living unit housing- -

(i) Clients for whom a physician has ordered a medical care plan;

(ii) Clients who are aggressive, assaultive or security risks;

(iii) More than 16 clients; or

(iv) Fewer than 16 clients within a multi-unit building.

Guidance §483.430(c)(2)

Indicators of staff not being awake in relation to the occurrence of incidents, accidents, and injuries may include, but are not limited to:

- incidents of unplanned client absences;
- untimely reaction to a medical emergency;
- injuries from client to client aggression; or
- a pattern of injuries of unknown origin.

If even one client meets 483.430(c)(2)(i-ii) then staff must be awake on a 24-hour basis.

A client has a medical care plan when an acute or chronic occurrence requires clinical assessment and monitoring on a scheduled basis.

W184

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(c)(3) There must be a responsible direct care staff person on duty on a 24 hour basis (when clients are present) to respond to injuries and symptoms of illness, and to handle emergencies, in each defined residential living unit housing- -

(i) Clients for whom a physician has not ordered a medical care plan;

(ii) Clients who are not aggressive, assaultive or security risks; and

(iii) Sixteen or fewer clients.

Guidance §483.430(c)(3)

At all times, there must be at least one staff person on-duty in the facility if even one client is present. For purposes of this provision, “on duty” staff need not be awake during normal sleeping hours, but do need to respond to injuries, illness, and emergencies promptly.

W185

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(c)(4) The facility must provide sufficient support staff so that direct care staff are not required to perform support services to the extent that these duties interfere with the exercise of their primary direct client care duties.

Guidance §483.430(c)(4)

Direct care staff should not be performing support services (e.g., making beds, cooking, cleaning, etc.) independently which takes them away from client interaction and teaching. If support services in the house cannot be done jointly as chores between clients, as part of their training program, and the support staff, additional staff should be added to perform the chores. This does not include any staff chores done during client’s sleeping hours.

“Support staff” include all personnel hired by the facility that are not either direct care staff or professional staff. For example, support staff includes, but are not limited to, secretaries, clerks, housekeepers, maintenance and laundry personnel.

(d) Standard: Direct care residential living unit staff

W186

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(d)(1) The facility must provide sufficient direct care staff to manage and supervise clients in accordance with their individual program plans.

Guidance §483.430(d)(1)

“Sufficient” means enough direct care staff to effectively implement the active treatment programs as defined in the IPP, to meet client needs, and to respond to emergencies, illness, or injuries.

Even though minimum ratios are defined at §483.430(d)(3), active treatment may require more staff than the minimums required ratios, therefore compliance should not be based on staffing ratios alone.

§483.430(d)(2) Direct care staff are defined as the present on-duty staff calculated over all shifts in a 24-hour period for each defined residential living unit.

Guidance §483.430(d)(2)

“Direct care staff” are those personnel who are assigned to work directly with the clients providing support during activities of daily living and active treatment programs.

Professional staff who work with clients in a living unit on a periodic basis are not included in direct care staff ratios.

Supervisors of direct care staff can be counted only if they share in the actual work of the direct care of clients on a continuous basis (e.g. take client assignment).

Direct care supervisors whose principle assigned function is to supervise direct care staff may not be included in direct care staff ratios although they may occasionally provide direct services to clients.

Non-direct care staff supervisors whose principle assigned function is to supervise non- direct care staff may not be included in direct care staff ratios.

W187

(Rev. 144, Issued: 08-14-15, Effective: 08-14-15, Implementation: 08-14-15)

§483.430(d)(3) Direct care staff must be provided by the facility in the following minimum ratios of direct care staff to clients:

(i) For each defined residential living unit serving children under the age of 12, severely and profoundly retarded clients, clients with severe physical disabilities, or clients who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the staff to client ratio is 1 to 3.2.

(ii) For each defined residential living unit serving moderately retarded clients, the staff to client ratio is 1 to 4.

(iii) For each defined residential living unit serving clients who function within the range of mild retardation, the staff to client ratio is 1 to 6.4.

Guidance §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. 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.

W188

§483.420(d)(4) When there are no clients present in the living unit, a responsible staff member must be available by telephone.

§483.430(e) Standard: Staff Training Program

W189

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(e)(1) The facility must provide each employee with initial and continuing training that enables the employee to perform his or her duties effectively, efficiently, and competently.

Guidance §483.430(e)(1)

Newly employed staff receive a supported orientation program (mentor or ongoing supervision) during their early employment. All staff receive continuing education on such issues as abuse and neglect, handling emergency situations, behavior management, and treating people with respect and dignity, etc.

The primary evidence of an effective staff training program is the observed competent interaction between staff and clients.

§483.430(e)(2) For employees who work with clients, training must focus on skills and competencies directed toward clients'

W190

(Rev. 144, Issued: 08-14-15, Effective: 08-14-15, Implementation: 08-14-15)

§483.430(e)(2) developmental,

Guidance §483.430(e)(2)

Staff receive training in the following areas:

- developmental programming principles and techniques (e.g. techniques to involve clients in their programs to their highest capability, use of positive reinforcement, use of assistive technology, use of appropriate materials and providing informal opportunities to practice skills);
- use of adaptive equipment and augmentative communication devices and systems;
- and
- effective recordkeeping procedures.

W191

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(e)(2) behavioral,

Guidance §483.430(e)(2)

Staff receive training in the following areas:

- use of behavioral principles during interactions between staff and clients;
- use of accurate procedures regarding abuse detection and prevention, restraints, drugs to manage behaviors, client safety, emergencies, etc.;
- use of least restrictive interventions;
- use of positive behavior intervention programming; and
- training clients in appropriate replacement behaviors.

W192

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(e)(2) and health needs

Guidance §483.430(e)(2)

Staff receive training in the following areas:

- signs and symptoms of the client's changing health (e.g. constipation, urinary tract infections, adverse drug reactions, as indicated);
- exercise and diet;
- first aid;
- infection control;
- reporting to appropriate healthcare professionals; and
- for those staff who can administer medications, how to include clients in their medication administration by recognizing and encouraging the use of applicable skills.

W193

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(e)(3) Staff must be able to demonstrate the skills and techniques necessary to administer interventions to manage the inappropriate behavior of clients.

Guidance §483.430(e)(3)

Staff correctly and consistently implement the interventions specified in the behavior plans of clients with whom they are working.

Inadequate training is evident when staff do not correctly implement behavioral programs, use inappropriate management techniques, cannot explain what intervention is to be used and how it is to be implemented.

W194

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.430(e)(4) Staff must be able to demonstrate the skills and techniques necessary to implement the individual program plans for each client for whom they are responsible.

Guidance §483.430(e)(4)

Staff are observed in various settings during the day correctly and consistently implementing the specific IPPs of the clients with whom they are working.

W195

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440 Condition of participation: Active treatment services

(a) Standard: Active treatment

W196

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(a)(1) Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services described in this subpart, that is directed toward-

(i) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(ii) The prevention or deceleration of regression or loss of current optimal functional status.

Active treatment embodies an individually- tailored series of daily life and living experiences that serve as the primary opportunity for the acquisition, development and expression of functional skills and adaptive behaviors necessary for the client to experience optimal independence and promote purposeful “self-expression”.

The uniqueness of each client is a core consideration in the design of active treatment programs. It is expected that individual clients are given the opportunity to provide input into the content of their day-to-day living experiences.

An active treatment program includes the following elements as substantiated through observation, interview and record review:

a) Each client’s needs and strengths have been accurately assessed and relevant input has been obtained from team members; (Observations and interviews with the client by the surveyor should be consistent with the current assessment information. Interview the QIDP regarding any needs observed but not addressed through assessment/programming by the facility).

b) Each client’s IPP is based on assessed needs and strengths, and addresses major life areas such as personal skills, home living skills, community living skills, employment skills, etc., essential to increasing independence and ensuring rights;

c) Needs identified as a priority are addressed formally and through activities which are relevant and responsive to client need, interest and choice;

d) Active treatment is consistently implemented in all relevant settings both formally and informally as the need arises or opportunities present themselves. It should not be limited to specific periods of time during the day or environments. Each client should receive aggressive and consistent training, treatments and supports in accordance with their needs and IPP. New skills and appropriate behaviors are encouraged and reinforced across environments and times of day. Each client has the adaptive equipment and environmental adaptations necessary for him/her to progress toward heightened independence as recommended and contained in their IPP. Active treatment means taking advantage of opportunities for the practice of new skills and the use of other skills during the normal rhythm of each client’s day.

e) Each client’s performance related to IPP objectives is accurately and consistently measured and documented and programs are modified on an ongoing basis based on data and major life changes; and

i. Clients with degenerative conditions receive training, treatment and services designed to retain skills and functioning and to prevent further regression to the extent possible.

ii. Clients may need adjustments to their active treatment programs as functional or endurance limitations are identified associated with the aging process. In such cases, there may be more of an emphasis on the retention of skills already attained and reducing the rate of loss of skills, than on the acquisition of new skills.

In large part, it is this pervasive and continuous reinforcement of “formal” training through “informal” routine daily living experiences and interactions with staff and others that makes active treatment programs effective. Formal settings are those that are planned and specifically structured for training on objectives and interventions. Informal settings are times that are not anticipated or planned but that offer the opportunity for training.

Active treatment programs mirror normal living experiences such as leisure activities and social conversation at the dinner table. It must be clear that active treatment programs are far more than implementation of discreet formal training sessions or programs that are conducted at prescribed times by defined personnel. Learning occurs in the process of the normal rhythm of life and life experiences.

W197

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(a)(2) Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

Guidance §483.440(a)(2)

All active treatment programs must be based upon assessed developmental needs which are prohibiting the client from living in a more independent setting.

Active treatment moves clients to a more independent setting.

- When a client is in the facility simply for protective oversight and is not in need of training for developmental deficits, this does not constitute active treatment (e.g. a court placement to protect the community or the client from the client’s behavior).

- Programs that are simply being provided to maintain a client’s independence would not be considered active treatment since the client is not actively being trained to live in a more independent setting. If a client already possesses the skills that enables them to live in a less restrictive environment, and does not require the structure, support and resources that services that only an ICF/IID can provide, they can be considered generally independent. For example, a client is admitted to the ICF/IID for the primary purpose of competency determination for a court hearing. This client lived independently prior to admission. The active treatment programs they are receiving are focused on maintaining that independence and do not address specific developmental deficits that inhibit independent living. This would not be considered active treatment.

(b) Standard: Admissions, transfers, and discharge**W198**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(1) Clients who are admitted by the facility must be in need of and receiving active treatment services.

Guidance §483.440(b)(1)

All client admissions must be based upon assessed developmental deficits which are prohibiting the client from living in a more independent setting and which require those intensive specialized supports, services, and supervision that only an ICF/IID can provide.

The individual components of the provision of active treatment include CFA, IPP, program implementation, program documentation, and program monitoring and change. When any of these individual components of active treatment are not in place, resulting in the clients not receiving active treatment, this regulation this not met.

W199

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(2) Admission decisions must be based on a preliminary evaluation of the client that is conducted or updated by the facility or by outside sources.

Guidance §483.440(b)(2)

Preliminary evaluations should support the need for an admission to an ICF/IID (e.g., deficits in functional skills or adaptive behaviors). The information from the preliminary evaluation must be used by the facility to make an admission decision.

Occasionally, emergency admissions of clients may occur without benefit of a preliminary evaluation having been conducted prior to admission. When situational emergencies necessitate admission before a preliminary evaluation can be conducted, or when pre-admission information is incomplete, the completion of the preliminary admission evaluation within seven (7) calendar days after admission will satisfy compliance with this requirement.

W200

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(3) A preliminary evaluation must contain background information as well as currently valid assessments of functional developmental, behavioral, social, health and nutritional status to determine if the facility can provide for the client's needs and if the client is likely to benefit from placement in the facility.

Guidance §483.440(b)(3)

The preliminary evaluation contains specific information useful to determine if the facility can meet the client's needs and if the client can benefit from placement.

The facility makes every reasonable effort to gather all available data to assist in their determination.

Background information would include information that gives insight into the clients' previous living environments and programming efforts.

The assessment must include a consideration as to whether reasonable accommodation as required by the Americans with Disabilities Act would enable the client to benefit from placement in facility.

§483.440(b)(4) If a client is to be either transferred or discharged, the facility must --

W201

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(4)(i) Have documentation in the client's record that the client was transferred or discharged for good cause; and

Guidance §483.440(b)(4)(i)

Transfer or discharge occurs only when the facility cannot meet the client's needs, the client no longer requires an active treatment program in an ICF/IID setting; the individual/guardian chooses to reside elsewhere, or when a determination is made that another level of service or living situation would be more beneficial to the client.

"Transfer" means the temporary movement of a client to another facility (e.g. another ICF/IID, psychiatric hospital, medical hospital) with the intention of return to the original site.

"Discharge" means the permanent movement of a client to another facility or setting which operates independently from the ICF/IID (e.g. the facility is not under the jurisdiction of the facility's governing body).

Documentation includes evidence of an assessment that evaluated the pros and cons of the transfer or discharge and the rationale for the final decision.

W202

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(4)(ii) Provide a reasonable time to prepare the client and his or her parents or guardian for the transfer or discharge (except in emergencies).

Guidance §483.440(b)(4)(ii)

The client and their family or the client and their legal guardian are involved in planning for any transfer or discharge and receive the services necessary to assist in preparing for movement, unless an emergency (medical) situation prevents that involvement. If the client has an advocate, the advocate should participate in the decision-making process.

Orderly, planned transfers and discharges usually take place over an extended period of time. The IPP should reflect objectives or interventions which prepare the client for transfer or discharge. Transfers or discharges executed on short timeframes (e.g. less than 30 days) without "good cause" would not comply with the "reasonable" intent of the regulations.

"Reasonable" time is the time required to provide clients and their families with planned steps and established timeframes to facilitate the successful transition. Time frames are modified based on client needs and emergent situations.

Preparation of the client for transfer may include orientation or trial visits to the new location. Staff should take steps to minimize potential anxiety or any behavioral reactions which could result from the client's transfer.

§483.440(b)(5) At the time of the discharge, the facility must-

W203

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(5)(i) Develop a final summary of the client's developmental, behavioral, social, health and nutritional status

Guidance §483.440(b)(5)(i)

The final summary should be useful for continued services in the client's new setting. The final discharge summary should be entered into the client's record, provide a summary of the client's course of stay in the ICF/IID, provide a final summary of the client's developmental, behavioral, social, health and nutritional status, and include the current status of the objectives listed in the client's IPP.

The status should address whether or not a clients' skills have been maintained, deteriorated, or improved during their stay.

W204

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(5)(i) and, with the consent of the client, parents (if the client is a minor) or legal guardian, provide a copy to authorized persons and agencies; and

Guidance §483.440(b)(5)(i)

When the client is discharged, the receiving entity (another ICF/IID, waiver home, family home, nursing home, etc.) is provided a copy of the discharge summary. The ICF/IID should obtain written consent to share this information with the persons who will be providing services to the client in the future and their parents/or legal guardians. Sharing the discharge summary with State Agencies as applicable is determined by state requirements.

W205

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(b)(5)(ii) Provide a post-discharge plan of care that will assist the client to adjust to the new living environment.

Guidance §483.440(b)(5)(ii)

The post discharge plan of care is a component of the discharge summary.

The facility utilizes the information from the discharge summary to prepare the discharge plan of care. The post-discharge plan of care identifies the essential supports and services necessary for the client to successfully adjust to the new living environment and describe necessary coordination of services. It should incorporate the client's preferences. It should identify specific client needs after discharge such as personal care, physical therapy, client/caregiver education needs, and the ability of the client or caregiver to meet those needs after discharge.

(c) Standard: Individual program plan

W206

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(1) Each client must have an individual program plan developed by an interdisciplinary team that represents the professions, disciplines or service areas that are relevant to -

i) Identifying the client's needs, as described by the comprehensive functional assessments required in paragraph (c)(3) of this section; and

ii) Designing programs that meet the client's needs.

Guidance §483.440(c)(1)

If a need is identified in the CFA, the professional associated with that need will conduct an initial evaluation for the development of the IPP.

The needs identified in the CFA determine the professional, paraprofessional, direct support staff, disciplines or service areas that must participate in the development of the IPP.

W207

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(2) Appropriate facility staff must participate in interdisciplinary team meetings.

Guidance §483.440(c)(2)

While there is no correct number of individuals that comprise the IDT, the team should include appropriate facility staff (professional and paraprofessional staff), that are responsible for designing, developing, and/or implementing the client's IPP and direct support staff who work closely with the clients.

For any prioritized objective, the paraprofessional or professional personnel responsible for the development and monitoring of that program should participate on the team, either through actual attendance or written or verbal input.

Members of the IDT may change as the assessed needs of the client change (e.g. medical issues, nutritional issues, communication needs, fine motor skill needs, gross motor skill needs, social issues or behavioral concerns).

W208

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(2) Participation by other agencies serving the client is encouraged.

Guidance §483.440(c)(2)

The facility must make every effort to coordinate the Individual Education Plan (IEP) from the school or the client's program plan from outside program, work site or workshop with the IPP. This may result in a single document, but there is no requirement for a single combined document. There must be evidence that all applicable plans were coordinated (evidence of discussion across the plans and observation would confirm integration of the IPP across the various settings). The QIDP is responsible for the coordination of the plans.

The facility should communicate changes in the IPP or in the clients' life situation with teachers and workplace representatives either directly or through written communication.

W209

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(2) Participation by the client, his or her parent (if the client is a minor), or the client's legal guardian is required unless the participation is unobtainable or inappropriate.

Guidance §483.440(c)(2)

The facility should make every effort to schedule team meetings at a time that enables the client parent or legal guardian, to attend without having to forfeit work time or pay.

The facility should make every effort to schedule team meetings at a time that enables the client parent or legal guardian, to attend without having to forfeit work time or pay.

It is expected that the client will routinely attend team meetings unless their participation is unobtainable. Examples of when client participation is not available include, but are not limited to: 1) the client is away from the facility for medical reasons or hospitalization; or 2) although the facility has documented repeated attempts to engage the client, the client refuses to participate.

If families/legal guardians are unable to attend a program planning meeting, the facility provides them information regarding the meeting outcome and gives them an opportunity to discuss the plan with the facility staff.

"Unobtainable", for the purposes of this guideline, means that the facility has made a good faith effort to seek parental or legal 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", for the purposes of this guideline, means that the parent or legal guardian's behavior is so disruptive or uncooperative that others cannot effectively participate; the client does not wish his or her parent to participate, and the client is competent to make this decision; or there is strong and documented evidence that the parent or legal guardian is not acting on the client's behalf or in the client's best interest. In the case of the latter, determine what the facility has done to bring effective resolution to the problem.

Instances when it is not appropriate for the client, parent or legal guardian, to attend the team discussion are rare. If the client does not attend the meeting, the facility must document the reason for his/her non-participation.

There may also be instances where a parent or legal guardian is considered unobtainable for a team meeting, such as being out of the country. In these instances, the parent or legal guardian should still be notified of the meeting,

provided with information concerning the outcome of the meeting and documentation in the client record should describe why the parent or legal guardian could not attend and what information was provided to them.

If the client is an adult who is competent to make decisions and who is not adjudicated, parents may not participate in the process if their participation is opposed by the client.

In the event that a non-adjudicated adult chooses not to have their family involved in the active treatment process, the surveyor should see evidence in the record of efforts made by the facility to understand why the client has declined family participation. If the client continues to decline family involvement after the facility has held discussions with him/her about the importance of this issue, the facility should honor the wishes of the client.

In general, the more involvement and communication among the team members, the client and the parent or legal guardian the more likely the plan will be successful. The facility goal should be to routinely include these parties unless rare circumstances exist.

W210

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3) Within 30 days after admission, the interdisciplinary team must perform accurate assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission.

Guidance §483.440(c)(3)

For new admissions, the CFA is completed within 30 days after admission and is utilized as the basis for the IPP.

New, revised or updated assessments completed within the first 30 days of admission, accurately identify the functional abilities of the client.

“Accurate” assessments refer to assessment data that are current, relevant and valid, and the skills, abilities, and training needs identified by the assessment correspond to the client’s actual, observed status. Assessments must be administered with appropriate adaptations such as specialized equipment, use of an interpreter, use of manual communication and tests designed to measure performance in the presence of visual disability.

The content of or format of the assessments or the particular assessment tools which are to be used for the CFA are not specified. Assessments must include identification of those functional life skills in which the client needs to be more independent and those services needed for the client to become more community integrated.

W211

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3) The comprehensive functional assessment must take into consideration the client’s age (for example, child, young adult, elderly person) and the implications for active treatment at each stage, as applicable, and must -

Guidance §483.440(c)(3)

During assessment, the client is given opportunities to participate in age-appropriate activities to assess the person’s functioning in those activities or settings. For example, the use of baby toys during the assessment of an adult would not be appropriate.

W212

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(i) Identify the presenting problems and disabilities and where possible, their causes;

Guidance §483.440(c)(3)(i)

The CFA includes:

- all diagnoses and developmental deficits for the client;
- the supporting information for each; and
- each evaluation should include conclusions and recommendations which go into the development of an active treatment program for the client.

W213

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(ii) Identify the client’s specific developmental strengths;

Guidance §483.440(c)(3)(ii)

The client's identified developmental strengths, preferences, methods of coping/compensation, community use and awareness, friendships and positive attributes and capabilities are clearly described in functional terms in the assessments.

Identified strengths are consistent with the client's observed functional status.

W214

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(iii) Identify the client's specific developmental and behavioral management needs;

Guidance §483.440(c)(3)(iii)

The CFA must address and identify those skill deficits/needed supports that may be amenable to training, those that must be treated by therapy and/or provision of assistive technology, and those that require adapting the environment and/or providing personal support. Assessment of needed supports should be done within the context of the client's age, gender, and culture.

"Behavioral management needs" include those behaviors that interfere with progress, prevent assimilation into the community, decrease freedom or increase the need for restriction of activities (e.g. spitting, pica, self-injurious behavior, aggressive behavior toward others or self-injurious behavior).

A functional behavioral assessment is a problem-solving process for evaluating client inappropriate behavior. It relies on a variety of techniques and strategies to identify the purpose of the specific behavior(s) and to help the IDT select interventions to directly address the behavior(s). A functional behavior assessment looks beyond the behavior itself. The focus when conducting a functional behavioral assessment is on identifying significant client-specific social, affective, cognitive, and/or environmental factors associated with the occurrence (and non-occurrence) of specific behaviors.

The CFA must identify the specific accommodations that address the client's needs to ensure better opportunity for the client's success. The identified accommodations may be assistive technology which can help a person learn, play, complete tasks, get around, communicate, hear or see better, control their own environment and take care of their personal needs (e.g. door levers instead of knobs, plate switches, audio books, etc.).

W215

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(iv) Identify the client's needs for services without regard to the actual availability of the services needed; and

Guidance §483.440(c)(3)(iv)

Identification of needed services is based on the CFA.

In the presence of significant developmental deficits, it is not acceptable for the facility to say that a particular professional therapy or treatment is not needed or not available if the CFA identifies a deficit. The assessment must identify the course of specific interventions recommended to meet the client's needs, both through direct professional services and non-professional services. For example, a client's communication skill development may not require the intensive services of a speech-language pathologist however, the direct care staff will need to work with the client and use a pre-determined communication system.

§483.440(c)(3)(v) Include

Guidance §483.440(c)(3)(v)

The CFA should include an assessment of each of the areas listed below. Assessments should include specific information about the person's ability to function in different environments, specific skills or lack of skills, and how function can be improved, either through training, environmental adaptations, or provision of adaptive, assistive, supportive, orthotic, or prosthetic equipment.

If assessments are done separately by professional disciplines, there should be evidence that the assessments are brought together in an interdisciplinary approach to address the client's various developmental areas.

The CFA must be completed upon admission and annually as indicated. While the assessment may not have the specific titles of the areas listed below, the surveyor must be able to identify information within assessments from each of the areas below.

W216**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.440(c)(3)(v) physical development and health,****Guidance §483.440(c)(3)(v)**

Physical development and health: This portion of the CFA includes the client'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); a review and summary of all laboratory reports since the last comprehensive evaluation, a summary of all required medical interventions since the last CFA; skills of the client normally associated with the monitoring and supervision of one's own health status, and administration and/or scheduling of one's own medical treatments. Reports of all specialist consultations should be included in the assessment as indicated by physical examination results.

IDT reviews any current advanced directives that the client may have in place as part of the CFA.

W217**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.440(c)(3)(v) nutritional status,****Guidance §483.440(c)(3)(v)**

Nutritional status: Nutritional status includes height and weight, the client's eating habits and preferences, favorite foods, determination of appropriateness of diet, adequacy of total food intake, bowel habits, means through which the client receives nutrition (e.g. feeding tube) and the skills associated with eating (including chewing, sucking and swallowing disorders).

W218**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.440(c)(3)(v) sensorimotor development,****Guidance §483.440(c)(3)(v)**

Sensorimotor development: Sensorimotor development includes the development of perceptual skills that are involved in observing the environment and making sense of it. Identified sensory deficits should be evaluated in conjunction with the impact they will have on the client's life. A sensory deficit in eye contact may not have a detrimental effect on the client's life if it will not hold the client back from further accomplishments or skill acquisitions. 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. For those motor areas that are identified by the assessment as limited, the assessment should specify the extent to which corrective, orthotic, prosthetic, or support devices would impact on functional status and the extent of time the device is to be used throughout the day.

W219**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.440(c)(3)(v) affective development,****Guidance §483.440(c)(3)(v)**

Affective (Emotional) development: Affective or emotional development includes the development of behaviors that relate to one's interests, attitudes, values, morals, emotional feelings and emotional expressions.

W220**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.440(c)(3)(v) speech and language development****Guidance §483.440(c)(3)(v)**

Speech and language (communication) development: One of the most contributable causes of behaviors, frustration by the clients, etc. is lack of effective communication. It is imperative that the CFA identifies how the client communicates, what barriers are present, what services are available and what programs and services will be provided

to assist the client to go out into and participate fully in the world. Observed client communication skills match the evaluation results and that training programs are in place to address needs.

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. These intervention strategies should provide the client with a viable means of communication which is appropriate to their sensory, cognitive and physical abilities.

W221

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(v) and auditory functioning,

Guidance §483.440(c)(3)(v)

Auditory functioning: Auditory functioning refers to the extent to which a person can hear, to the maximum use of residual hearing if a hearing loss exists, and whether or not the client will benefit from the use of amplification, including a hearing aid or a program of amplification.

W222

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(v) cognitive development,

Guidance §483.440(c)(3)(v)

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. It is also the identification of different learning styles the client has and those best used by the trainers. It is critical that the CFA address the individual learning style of the client in order to best direct the way the trainers will teach formal and informal programs.

W223

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(v) social development,

Guidance §483.440(c)(3)(v)

Social Development: Social development refers to the formation of those self-help, recreation and leisure, and interpersonal skills that enable a client to establish and maintain appropriate roles and fulfilling relationships with others. Assessments may address family supports and relationships, sexual awareness and sexuality, friendships, social awareness, social skills and social interests.

W224

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(v) adaptive behaviors or independent living skills necessary for the client to be able to function in the community,

Guidance §483.440(c)(3)(v)

Adaptive behaviors or independent living skills: Adaptive behavior refers to the effectiveness or degree with which clients meet the standards of personal independence and social responsibility and community orientation and integration expected of their age and cultural group. Adaptive behaviors are those behaviors that are developed to cope with deficits in order to be able to perform every day skills as independently as possible. Independent living skills include, but are not limited to, such things as food shopping, meal preparation, housekeeping and kitchen chores, 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 to meet this requirement, but can serve as a basis for screening.

W225

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(3)(v) and as applicable, vocational skills.

Guidance §483.440(c)(3)(v)

Vocational 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). The vocational assessment for each client may address job sampling, job development, on-site job training and long term follow-up, as appropriate to the client and determined by the IDT.

Vocational assessments should describe, for all domains, what clients can and cannot do in terms of skills needed within the context of their daily lives and jobs.

Assessments should be individualized and based on:

- Actual performance of the client against objective criteria;
- Reports by staff/parents/legal guardians; and
- Observed performance in a variety of settings.

W226

§483.440(c)(4) Within 30 days after admission, the interdisciplinary team must prepare for each client an individual program plan

W227

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4) that states the specific objectives necessary to meet the client’s needs, as identified by the comprehensive assessment required by paragraph (c)(3) of this section,

Guidance §483.440(c)(4)

Objectives are developed for those needs that are identified by the CFA and which are considered to be most likely to improve the client’s ability to independently function in his/her daily life, as determined by the IDT.

There is a clear link between the specific objectives and the functional assessment data and recommendations.

Objectives are developed for those needs that are observed to most likely impact the client’s ability to function in daily life. Training objectives should be developed to address client needs rather than staff oriented objectives.

Clients are expected to have training objectives in the areas of activities of daily living, based on the client’s assessed needs and as prioritized by the IDT. If clients have eyeglasses, dentures and/or other assistive devices it is expected that the team considers objectives, based upon the assessment of client needs, addressing the care and use of such devices. However, in the area of programs to teach the clients’ money management it is not expected that every client will automatically have a formal training objective to participate in such a program. The decision to prioritize such a program and to what level the program is developed is decided by the IDT based upon the results of the CFA and in consideration of such factors as, transferable skills, the ability to make choices, the ability to identify preferences and cognitive abilities such as attention span and an understanding of the principle of cause and effect.

Similarly, the decision to prioritize and develop a training objective for a client to participate in a self-administration program for medications must be made by the IDT and be based upon information from the CFA. Formal self administration programs should not be confused with informal efforts to include the client in the administration process such as allowing them to hold a glass of water, identify the box where his/her medications are stored or put a pill into their own mouth themselves under the supervision of a person who is qualified to administer medications.

W228

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4) and the planned sequence for dealing with those objectives.

Guidance §483.440(c)(4)

The objectives identified in W227 are organized in a logical sequence, determined by the team that will assist the client toward the attainment of skills resulting in greater self- choice, independence, and community integration. The logical sequencing of objectives means there is a completion of one objective that serves as the building block for the next with relevance to the client’s functional status. Where objectives are logically ordered but do not have relevance to the client’s functional status, refer to 483.440(c)(4).

If the IPP is organized in a logical sequence, this requirement is met. For example, if the long term goal is to travel independently in the community, the objective sequencing may involve training the client to recognize traffic signs, cross the street safely, and to obtain help when needed if lost or an emergency arises.

These objectives must –

W229

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4)(i) Be stated separately, in terms of a single behavioral outcome;

Guidance §483.440(c)(4)(i)

Each objective clearly states one expected learning result.

“Single” behavioral outcome means that there is a separate objective assigned for each discrete behavior that the team intends the client to learn. For example, “Mary will bake a cake and clean the oven” are two separate behaviors and, therefore, should be stated in two separate objectives. Completion of the morning hygiene routine includes programs for performance of face washing, tooth brushing and hair combing which are three separate objectives; however, the behavioral outcome for each would be the same (e.g. completion of the morning hygiene routine).

W230

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4)(ii) Be assigned projected completion dates;

Guidance §483.440(c)(4)(ii)

Completion dates are based on the client’s rate of learning.

Completion dates are assigned to each objective on which the client is currently working. Completion dates are individualized (e.g. not all the same for all clients and all objectives).

The “projected date of completion” for an IPP objective is not the same as a “review” date. For each objective assigned a priority, the team should assign a projected date (month and year) by which it believes the client 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 client’s progress or learning curve is sufficient to warrant a revision to the training program.

W231

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4)(iii) Be expressed in behavioral terms that provide measurable indices of performance;

Guidance §483.440(c)(4)(iii)

The desired learning outcome is stated in a manner which enables all staff working with the client to consistently identify the target behavior and to clearly identify when it is being displayed.

The objective is stated in a manner which permits it to be measured with quantifiable data.

“Behavioral” terms include only those behaviors which are “client” rather than staff oriented and those that any person would agree can be seen or heard. Determine if all staff who work with the client can define the exact same outcome on which to measure the client’s performance.

“Measurable indices of performance” are the quantifiable criteria to use in determining successful achievement of the objective. Quantifiable criteria include various measurements of intensity and duration. For example, “Client X will walk ten feet, with the use of her tripod walker, on each of five (5) consecutive days.”

W232

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4)(iv) Be organized to reflect a developmental progression appropriate to the individual; and

Guidance §483.440(c)(4)(iv)

Objectives must be relevant to the client’s current skill sets and abilities as identified in the CFA.

The ICF/IID must consider the person’s current functional abilities and project what steps, methods, and strategies are likely to be effective in achieving the objective.

W233

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(4)(v) Be assigned priorities.

Guidance §483.440(c)(4)(v)

Priorities are established based on the needs and in consideration of the desires of the client and emphasize the development of greater independence, self-choice, and community integration.

The team determines which objectives are the highest priority to be addressed, either because the client has an immediate need or the priority objectives must be accomplished before other priorities are addressed.

§483.440(c)(5) Each written training program designed to implement the objectives in the individual program plan must specify:**Guidance §483.440(c)(5)**

The following regulations (5) (i-iv) apply to formal training programs developed for current implementation.

W234

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(5)(i) The methods to be used;**Guidance §483.440(c)(5)(i)**

The training program provides clear directions to any staff person working with the client on how to implement the teaching strategies. To comply with this requirement the methodologies must be written in a clear enough manner that a substitute staff person will be able to read the methodologies and implement them without substantial differences from a regularly assigned staff person. Methodologies should be consistent across settings, such as when the client is in the day program.

W235

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(5)(ii) The schedule for use of the method;**Guidance §483.440(c)(5)(ii)**

Active treatment (the implementation of training programs pursuant to objectives) should be provided in formal and informal settings throughout the rhythm of the client's day. While there may be structured episodes when the client works intensively and singularly on one or more objectives (schedule), the provision of active treatment is not adequate when confined solely to these types of formal settings but should be incorporated into all activities when appropriate (client's routine). For example, objectives on grasping may be as effectively carried out during the client's use of a toothbrush and a spoon as in an isolated session.

W236

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(5)(iii) The person responsible for the program;**Guidance §483.440(c)(4)(v)**

The IPP should include the actual name of the staff person who is responsible for the ongoing monitoring of the client's program to ensure it is being implemented appropriately, as well as the designated position which will implement the program.

The QIDP should be familiar with the assessment and recording requirements for each client for each formal objective, including who is responsible for making these observations and completing the recording, and demonstrate a familiarity with the current data recorded for each client.

W237

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(5)(iv) The type of data and frequency of data collection necessary to be able to assess progress toward the desired objectives;**Guidance §483.440(c)(5)(iv)**

The IDT must determine the type of data necessary to judge a client's progress on an objective, and describe the data collection method in the written training program. The facility determines what data to collect, but whatever system is chosen for collection must yield accurate measurement of the criteria stated in the client's IPP objectives. For example, if the criteria in the client's IPP objective specified a 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”.

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; and
- frequency sampling.

The IDT must consider and select the type and frequency of data collection for each objective based upon the need to measure appropriately the client’s performance toward the targeted IPP skill development. The facility should collect data with enough frequency and content to be able to appropriately measure the client’s performance toward the targeted IPP skill development. The frequency of data collection may vary with the objective but must be made at sufficient intervals to allow analysis of the progress of the client.

W238

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(5)(v) The inappropriate client behavior(s), if applicable; and The inappropriate client behavior(s), if applicable; and

Guidance §483.440(c)(5)(v)

Any specific behaviors which would interfere with the client’s ability to function in, or benefit from the training program are identified (e.g. a fear of water could interfere with the client’s bathing program).

W239

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(5)(vi) Provision for the appropriate expression of behavior and the replacement of inappropriate behavior, if applicable, with behavior that is adaptive or appropriate.

Guidance §483.440(c)(5)(vi)

The training program provides specific information as to how to elicit or strengthen appropriate behavior and what behaviors to teach reinforce or encourage which would reduce or replace the inappropriate behavior.

If a client is exhibiting an inappropriate behavior, the CFA should discover why the behavior is occurring and the team should develop associated training objectives to help the client develop more appropriate behaviors. The objective for decelerating targeted inappropriate behaviors is not solely the reduction of these behaviors. The objective should also include the positive functional replacement behavior (adaptive behavior).

A replacement behavior allows a client to substitute an unconstructive or disruptive behavior with something more constructive and functionally equivalent. For example, instead of throwing work materials as a way to get a break from vocational task demands, teach the client to say or sign for ‘break’.

§483.440(c)(6) The individual program plan must also:

W240

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(i) Describe relevant interventions to support the individual toward independence.

Guidance §483.440(c)(6)(i)

Appropriate materials, adaptations and modifications to equipment and the environment are available in order to promote and support individual training programs. Examples may include, but are not limited, to built-up toilet seats, adaptive eating utensils, extended reach devices, and modification to the facility van to accommodate a wheelchair.

The IPP describes supports and services, in addition to the individual goals and objectives that will be provided by the facility to assist the client to function with greater independence.

W241

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(ii) Identify the location where program strategy information (which must be accessible to any person responsible for implementation) can be found.

Guidance §483.440(c)(6)(ii)

This requirement refers to the training program plans, objectives, descriptions of staff interventions and data collection tools which must be readily accessible to any staff in order for the programs to be consistently and effectively carried out and data collected.

W242

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(iii) Include, for those clients who lack them, training in personal skills essential for privacy and independence (including, but not limited to, toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication of basic needs), until it has been demonstrated that the client is developmentally incapable of acquiring them.

Guidance §483.440(c)(6)(iii)

All clients who lack the skills listed within this standard have associated training programs developed to meet their needs according to prioritization. These programs are consistently implemented in both formal and informal settings.

“Developmentally incapable” is a decision made by the IDT that means a client does not have the capacity to acquire certain skill sets. The decision must be based on an assessment of the client’s strengths, needs, and functional limitations.

The determination of developmental incapability must be accompanied by written evidence supporting this determination.

Such evidence may include training programs which failed after many different strategies were tried, or physical limitations that preclude the acquisition of the skill. Examples are:

- 1) Eye contact program was attempted using seven different methods over a two year period;
- 2) An client has two frozen elbow joints which do not allow her to get her hands to her mouth and consequently she will not be trained on any hand to mouth skills; and
- 3) Some clients may have insufficient neuromuscular and sensory control to ever be totally independent in toileting skills.

Toilet scheduling alone without any plan to progress would not be considered a toilet training program.

The components of functional skills “training” as used in this regulation means aggressive implementation of a systematic program of formal and informal techniques, which are:

- targeted toward assisting the client achieving the measurable behavioral level of skill competency specified in IPP objectives;
- implemented at natural occurrences of activity and training programs; (e.g.: an objective for a client to increase grasping may be implemented as easily in the workshop with a built up tool as in the bathroom with a toothbrush);
- conducted by all personnel involved with the client including those outside the home such as in day programs; and
- carried out in conversation and interaction with the client appropriate to the situation.

§483.440(c)(6)(iv) Identify mechanical supports, if needed, to achieve proper body position, balance, or alignment. The plan must specify

Guidance §483.440(c)(6)(iv)

The use of mechanical supports are based upon an individual assessment and fitting. Mechanical devices are used to support a client’s proper body position or alignment and may be essential to prevent contractures or deformities. However, mechanical supports restrict movement and the client should be released from the support periodically for exercise and free movement. Mechanical supports may not be used as a substitute for programs or therapy. For example, the use of a bolster to position a client upright in a sitting position without any indication there has been an assessment for the need for muscle re-training may be an indication of a mechanical device in lieu of programming. 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 a wheelchair which facilitate correct body alignment by inhibiting reflexive, involuntary motor activity are mechanical supports and should be included in the plan for the client.

W243

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(iv) the reason for each support,

W244

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(iv) the situations in which each is to be applied,

W245

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(iv) and a schedule for the use of each support.

W246

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(v) Provide that clients who have multiple disabling conditions spend a major portion of each waking day out of bed and outside the bedroom area, moving about by various methods and devices whenever possible.

Guidance §483.440(c)(6)(v)

Clients with sensory or physical difficulties should be given the same opportunities to move around in their environments as clients who do not have those difficulties. Even clients who use specialized wheelchairs should be given the opportunity to utilize other devices such as walkers, wagons and scooters to move about and/or change their positions.

With the exception of those clients who are acutely ill (such as those who are hospitalized or incapacitated by a “short term” illness), all clients 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.

Bed rest is a temporary situation associated most usually with a medical condition and must be ordered by the medical staff of the facility. The term implies that the client will remain in his/her bed for most of any 24-hour period. Although active treatment programs may be carried out to some extent while the client is on bed rest, the client’s program cannot be completed in its entirety. While there may be situations where continuous bed rest may be necessary, these situations are rare.

For those rare instances where out-of-bed activity is a threat to a client’s health and safety (e.g., blood clot in the leg), active treatment adapted to the medical capacity of the client must be continued.

W247

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(6)(vi) Include opportunities for client choice and self-management.

Guidance §483.440(c)(6)(vi)

Choice and self-management are integral components of becoming independent. Clients should be given opportunities for choice and self-management in both formal and informal settings through the IPP process, leisure activities, and other life choices.

The ICF/IID must incorporate opportunities into daily life experiences that promote choice making and decision making by clients. Examples of some activities leading toward responsibility for one’s own self-management include, but are not limited to:

- 1) choosing housing or roommates;
- 2) choosing clothing to purchase or wear;
- 3) choosing what, where, and how to eat (e.g., the use of family style dining, access to condiments and second helpings).

Choices can be made by all clients. The type of choices the person makes may vary from simple to complex, dependent upon client abilities.

Clients are provided opportunities for choice and self-management and the facility does not limit choices by making decisions for the people being served without their input. Clients are provided the opportunity to demonstrate skills to the degree they are capable and only assisted by staff as indicated in their IPP. A lack of facility staffing or staff convenience must not result in a limitation of choices of self-management for the clients.

W248

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(c)(7) A copy of each client's individual plan must be made available to all relevant staff, including staff of other agencies who work with the client, and to the client, parents (if the client is a minor) or legal guardian.

Guidance §483.440(c)(7)

The client or legal representative, as well as the facility staff, and staff from outside agencies, with appropriate consent, have, or can access, a copy of the IPP.

(d) Standard: Program implementation**W249**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(d)(1) As soon as the interdisciplinary team has formulated a client's individual program plan, each client must receive a continuous active treatment program consisting of needed interventions and services in sufficient number and frequency to support the achievement of the objectives identified in the individual program plan.

Guidance §483.440(d)(1)

There should be no delay in the development and implementation of the IPP. To promote a team process and meaningful discussion, IPP development should take place during IDT meetings. Any IPP objective or modification that is critical to the health and safety of any client should be implemented immediately following IDT discussion."

Each individual receives training and services consistent with the current IPP.

The time period between admission and the 30 day IDT meeting is primarily to assist the client to become adjusted and acclimated to his or her new living environment and to enable the facility to complete the CFA. During this time period the facility should also be providing those services and activities determined during the pre-admission assessment as essential to the client's daily functioning.

The active treatment program for the client is consistently implemented in all relevant settings both formally and informally as opportunities present themselves. It should not be limited to specific periods of time during the day or specific environments.

Each client should receive aggressive and continuous training, treatments and supports in accordance with their needs and IPP. New skills and appropriate behaviors are encouraged and reinforced across environments and times of day.

- During observations confirm that the client activities relate directly to the strengths, needs and objectives in the IPP for each client and are not "busy work," generalized or non-developmental time fillers. For example, screwing nuts on bolts and then unscrewing them repeatedly with no goal or transferable skills is "busy work." Screwing nuts on bolts that will be part of a product is functional reinforcement of skill acquisition.

- Clients use adaptive equipment, assistive devices, environmental supports, materials, supplies, etc., as specified in each client's IPP to assist the client to accomplish stated objectives.

There is no specific number or frequency of interventions that meets this requirement. The surveyors should see that the facility capitalizes on all opportunities throughout the course of the day that promote progress toward the achievement of goals and objectives.

Informal opportunities ("teachable moments") should be utilized to reinforce learning or appropriate skill development and needs are addressed as they present.

Although a client may not be able to reach complete independence in a functional skill, it is crucial that retention of their current skills be supported.

Clients may have defined periods of time where they may engage in leisure activities of their choice which are not necessarily directly associated with their IPP goals and objectives.

W250

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(d)(2) The facility must develop an active treatment schedule that outlines the current active treatment program and that is readily available for review by relevant staff.

Guidance §483.440(d)(2)

The schedule is individualized, consistent with the client's objectives, and reflects normal daily routines.

The staff working with individual clients are familiar with their daily schedules and can produce the schedule upon request.

The active treatment schedule allows flexibility and is adjusted to the needs and preferences of the client, as necessary.

It's a schedule of the client's general daily plans, but can be changed.

The active treatment schedule is a functional schedule which enables client and staff to be in the right location in order to participate in the training as scheduled by the IPP.

W251

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(d)(3) Except for those facets of the individual program plan that must be implemented only by licensed personnel, each client's individual program plan must be implemented by all staff who work with the client, including professional, paraprofessional and nonprofessional staff.

Guidance §483.440(d)(3)

All disciplines, including direct care staff, interacting with the client work together to provide a uniform, consistent approach to implementation of the IPP.

(e) Standard: Program documentation

W252

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(e)(1) Data relative to accomplishment of the criteria specified in client individual program plan objectives must be documented in measurable terms.

Guidance §483.440(e)(1)

"Data" are defined to be performance information collected and reported in numerical or quantifiable form for each training objective assigned priority in the IPP.

Data are those performance measurements collected at the time the treatment, procedure, intervention or interaction occurs with the client and recorded as soon as possible. The data should be located in a place accessible to staff who conduct training.

Data should be collected in a form and frequency as required by the plan to enable quantitative (frequency or numbers) analysis of the client's progress.

Data are accurate (e.g., reflective of actual client performance.)

§483.440(e)(2) The facility must document significant events that

W253

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(e)(2) are related to the client's individual program plan and assessments and

Guidance §483.440(e)(2)

Significant events are those events which would cause a reasonable person to be affected and which impact a normal routine. Such events include changes in the client's functional status, emotional health, physical health, accomplishments, activities or needs which impact the CFA and IPP, as well as instances of abuse, neglect or mistreatment.

The client record should contain documentation that such events are evaluated and monitored.

W254

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(e)(2) that contribute to an overall understanding of the client's ongoing level and quality of functioning.

(f) Standard: Program monitoring and change

§483.440(f)(1) The individual program plan must be reviewed at least by the qualified intellectual disability professional and revised as necessary, including, but not limited to situations in which the client- -

Guidance §483.440(f)(1)

Program implementation is a critical piece of each client's active treatment program. The QIDP must review or revise client programs according to 483.440(f)(1)(i-iv) and at such an interval that any of the requirements are promptly identified and addressed.

W255

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(1)(i) Has successfully completed an objective or objectives identified in the individual program plan;

Guidance §483.440(f)(1)(i)

The QIDP ensures the program has been modified or changed in response to the client's specific accomplishments or need for new program.

W256

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(1)(ii) Is regressing or losing skills already gained;

W257

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(1)(iii) Is failing to progress toward identified objectives after reasonable efforts have been made; or

Guidance §483.440(f)(1)(iii)

There should be evidence that the QIDP has reviewed and revised the IPP in those situations when the client's IPP has been consistently implemented yet the client fails to achieve their objectives.

W258

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(1)(iv) Is being considered for training towards new objectives.

§483.440(f)(2) At least annually,

Guidance §483.440(f)(2)

For the "annual" review to meet this requirement, it must be completed by at least the 365th day following the previous review, unless in an isolated or rare instance a client or the client's family is not available for a projected period of time and the subsequent delay is a minimal number of days.

W259

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(2) the comprehensive functional assessment of each client must be reviewed by the interdisciplinary team for relevancy and updated as needed;

Guidance §483.440(f)(2)

The CFA is reviewed at least annually.

The review of the CFA occurs sooner than annually if:

- indicated by the needs of the client;
- reflects any changes in the client since their last evaluation; and
- incorporates information about the client's progress or regression with objectives.

The review of the CFA applies to all evaluations conducted for a client. It is not required that each assessment be completely redone each year, except the physical examination. It is required that at least annually the assessment(s) be updated when changes occur so as to accurately reflect the client's current status.

W260

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(2) and the individual program plan must be revised, as appropriate, repeating the process set forth in paragraph (c) of this section.

Guidance §483.440(f)(2)

The IPP reflects the functional changes for the client which occurred since the last IPP. It is unlikely that an active treatment program will have no changes from year to year without documentation to support not changing the plan. Question an IPP that is a duplication of the prior year's plan without explanation.

W261

(Rev. 144, Issued: 08-14-15, Effective: 08-14-15, Implementation: 08-14-15)

§483.440(f)(3) The facility must designate and use a specially constituted committee or committees consisting of members of facility staff, parents, legal guardians, clients (as appropriate), qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior, and persons with no ownership or controlling interest in the facility to -

Guidance §483.440(f)(3)

The facility must have a specially constituted committee whose primary function is to proactively protect client rights by monitoring facility practices and programs. The purpose of the committee is to assure that each client's rights are protected utilizing a group of both internal staff and *external participants who have no vested interest in the facility as well as clients as appropriate*. There should be evidence that the committee members have been trained annually on the rights of the clients, what constitutes a restriction of a right and the difference between punishment and training. Depending on size, complexity and available resources, the ICF/IID may establish more than one specially constituted committee. However, each committee must contain the required membership and participate regularly and perform the functions of the committee according to the requirements. Participation on the specially constituted committee(s) must be in real time allowing all membership to speak and discuss in an interactive mode.

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 discipline, such as nurse, physician or pharmacist be a member 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 of each constituted committee 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 the role of person with no ownership or controlling interest.

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 (as defined by the facility) must review, approve and monitor the programs which involve risk to client rights and protections and that quorum must include one person from each of the required categories.

W262

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(3)(i) Review, approve, and monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights;

Guidance §483.440(f)(3)(i)

Any program that utilizes restrictive or intrusive techniques must be reviewed and approved by the specially constituted committee prior to implementation. This includes, but is not limited to:

- restraints;
- drugs to manage behavior;
- restrictions on community access;
- contingent denial of any right; or
- restrictions of materials or locations in the home.

The committee should ensure that consequences within a written behavior management program do not violate the client's rights.

There is no requirement for the committee to evaluate whether the proposed program is consistent with current practices in the field. Documentation should verify that the specially constituted committee considered factors, such as whether less intrusive methods have been attempted, whether the severity of behavior outweighs the risks of the proposed program and whether replacement behaviors are included within the plan.

Any revision to a behavior plan that increases the level of intrusiveness must be re-reviewed by the specially constituted committee. The committee need not reapprove a program when revisions are made 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. Generally, this would also apply if the medication was changed to another within the same therapeutic class or family.

W263

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(3)(ii) Insure that these programs are conducted only with the written informed consent of the client, parents (if the client is a minor) or legal guardian; and

Guidance §483.440(f)(3)(ii)

The committee must ensure that written informed consent must be obtained prior to implementation of any restrictive or intrusive program. In the event of an emergency, the facility may obtain a verbal consent, which must be authenticated in writing as soon as possible and subsequently submitted to the committee as verification.

The consent is required for the entire behavior management program not just the specific restrictive technique.

Consent is informed when the person giving consent is fully aware of the:

- specific treatment;
- reason for treatment or procedure;;
- the attendant risks vs. benefits;
- alternatives;
- right to refuse; and
- the consequences associated with consent or refusal of the program.

Informed consent must be in writing and must be specific to the program and restrictive practice and reflect a specific time frame. Blanket consents are not allowed. In the case of unplanned events such as assault and property destruction requiring immediate action, verbal consent may be obtained. However, it should be authenticated in writing as soon as reasonably possible (within 30 days).

For clients up to the age of 18, their parent or legally appointed guardian must give consent for him or her. At the age of 18, however, clients become adults and are assumed to be competent unless otherwise determined by a court.

For clients who are adults and have not been adjudicated incompetent and have not been assigned a legal guardian who may not fully understand the consequences of the program, informed consent for use of restrictive programs, practices or procedures should be obtained from a person or an entity in accordance with state law, to act as the representative or advocate of the client's interests.

The specially constituted committee must ensure that the informed and voluntary consent of the client, 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 client in research activities; or
- Implementation of programs or practices that could abridge or involve risks to client protections or rights.

W264

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.440(f)(3)(iii) Review, monitor and make suggestions to the facility about its practices and programs as they relate to drug usage, physical restraints, time-out rooms, application of painful or noxious stimuli, control of inappropriate behavior, protection of client rights and funds, and any other areas that the committee believes need to be addressed.

Guidance §483.440(f)(3)(iii)

The committee has been made aware of and reviewed:

- facility policies and procedures;
- facility services;
- programs; and
- practices which may restrict or violate the rights of client.

The committee has established and uses a mechanism for monitoring clients' rights issues and informs the governing body of any issues of concern in a timely manner. This process is at the discretion of the committee. There is no requirement for periodic review of the policies by the committee.

The function of the committee is not limited to the review, approval and monitoring of restrictive behavior management practices. Examples of issues involving client rights that might be reviewed by the committee, in addition to behavior management, include, but are not limited to:

- 1) Research proposals involving clients;
- 2) Abuse, neglect and mistreatment of clients;
- 3) Allegations dealing with theft of a client's personal property or funds;
- 4) Damage to a client's goods or denial of other client rights;
- 5) Client grievances;
- 6) Visitation procedures;
- 7) Guardianship/advocacy issues;
- 8) Rights training programs;
- 9) Confidentiality issues;
- 10) Advance directives/DNR orders;
- 11) Practices which restrict clients (e.g., locked doors, fenced in yards); and
- 12) Video monitoring.

W265

§483.440(f)(4) The provisions of paragraph (f)(3) of this section may be modified only if, in the judgment of the State survey agency, Court decrees, State law or regulations provide for equivalent client protection and consultation.

W266

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450 Condition of participation: Client behavior and facility practices

(a) Standard: Facility practices-- Conduct toward clients

W267

(Rev.135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(1) The facility must develop and implement written policies and procedures for the management of conduct between staff and clients.

Guidance §483.450(a)(1)

The primary survey emphasis is on the implementation of the policies and procedures developed by the facility.

Conduct between staff and clients refers to language, actions, discipline, rules, order and other types of interactions exchanged between staff and clients or imposed upon clients by the staff during a client's daily experiences that affect the quality of a client's life.

§483.450(a)(1) These policies and procedures must –

W268

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(1)(i) Promote the growth, development and independence of the client;

Guidance §483.450(a)(1)(i)

Consistent with facility policies, staff is observed to be engaged in activities which promote the client's growth, development and independence.

- 1) IPPs and data support the fact that from the time of admission, clients are learning new adaptive and functional skills while becoming more independent.
- 2) Interactions between clients and staff are consistent and positive.
- 3) Staff teach and encourage clients to interact with each other in a manner that promotes social integration both in the facility and out in the community.
- 4) All opportunities to teach and reinforce skill acquisition are utilized.
- 5) Staff identify and remove impediments in the learning environment (e.g. client is unable to concentrate in a room with a television because when they see the television, they want to watch their favorite show. Staff must identify this learning impediment and train in an environment without a television).
- 6) Staff encourage clients to complete tasks with as much independence as possible.
- 7) Staff encourage clients to take risks while providing reasonable safeguards to prevent injury.
- 8) Encourage clients to make choices during their daily activities.

W269

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(1)(ii) Address the extent to which client choice will be accommodated in daily decision-making, emphasizing self-determination and self-management, to the extent possible;

Guidance §483.450(a)(1)(ii)

Written facility policies describe how the facility will offer choice to the clients during the course of their day.

Written policies describe how self-determination, as defined by free choice of one's own acts and decisions without external coercion or direction, to the extent possible and self-management, as defined by control of one's own routine and daily responsibilities, to the extent possible, are incorporated into the development of program plans and daily routines.

W270

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(1)(iii) Specify client conduct to be allowed or not allowed; and

Guidance §483.450(a)(1)(iii)

“Client conduct” refers to any behavior, choice, action, or activity in which a client may choose to engage alone or with others.

Written policies and procedures which may be in the form of “house rules”, must not impinge on individual client rights and must not be used as a substitute for the development of individualized programs and plans.

W271

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(1)(iv) Be available to all staff, clients, parents of minor children, and legal guardians.

Guidance §483.450(a)(1)(iv)

Policies and procedures for management of conduct between staff and clients (483.450(a)(1)) should be provided to clients, parents of minor children, and legal guardians at admission and upon request. Policies and procedures are available on the residential and program areas if these are in separate buildings.

W272

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(2) To the extent possible, clients must participate in the formulation of these policies and procedures.

Guidance §483.450(a)(2)

“To the extent possible” does not mean that the clients are excluded due to the clients’ schedule or intellectual or developmental level. Facilities should be able to provide documentation that substantiates that clients were offered the opportunity and participated in the development of the policies. This could be accomplished through client committees or in house meetings. There should be documentation of these discussions between the client representatives and the facility.

W273

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(a)(3) Clients must not discipline other clients, except as part of an organized system of self-government, as set forth in facility policy.

Guidance §483.450(a)(3)

Staff will promptly intervene when any clients tries to independently impose discipline upon another client. For example, a client who is serving dessert to the group withholds dessert from another client based upon their own evaluation of that client's behavior.

(b) Standard: Management of inappropriate client behavior

W274

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1) The facility must develop and implement written policies and procedures that govern the management of inappropriate client behavior

Guidance §483.450(b)(1)

At a minimum, the facility must have written policies and procedures regarding the management of maladaptive behaviors addressing the following:

483.450(b)(1) (W 275 – W284).

- the use of a functional behavior assessment in the development of behavior management programs;
- a hierarchy of least to most intrusive measures; and
- incorporation of behavior management programs into the IPP.

§483.450(b)(1) These policies and procedures must be

W275

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1) consistent with the provisions of paragraph (a) of this section.

§483.450(b)(1) These procedures must

W276

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(i) Specify all facility approved interventions to manage inappropriate client behavior;

Guidance §483.450(b)(1)(i)

All interventions for the management of inappropriate client behaviors which are approved for use in the facility are clearly stated and described in its policy. Examples of positive interventions include, but are not limited to, verbal praise reward systems, and prompting. Examples of negative interventions include, but are not limited to, removal of a privilege, implementation of restraint, and/or the use of exclusionary time out.

W277

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(ii) Designate these interventions on a hierarchy to be implemented, ranging from most positive or least intrusive, to least positive or most intrusive;

Guidance §483.450(b)(1)(ii)

Policies and procedures must include a clear progression as to how staff implement interventions to manage inappropriate client behavior.

Facility policy and procedures must define the entire hierarchy of possible interventions from the most positive, functionally appropriate approaches to most intrusive approaches authorized. The facility determines at what level in the hierarchy the IPP will begin for each client based on their individual assessment. The plan must still begin at the least intrusive technique shown effective for that client. Individual plans should specify the specific techniques that have been determined through assessment to be least restrictive for each client.

The facility policy for unexpected behavioral incidents must provide direction for the staff in the utilization of the hierarchy. For clients not on a behavior plan, staff must apply the appropriate level of intervention per the established hierarchy, including emergency measures to prevent harm to self or others.

W278

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iii) Insure prior to the use of more restrictive techniques, that the client's record documents that programs incorporating the use of less intrusive or more positive techniques have been tried systematically and demonstrated to be ineffective; and

Guidance §483.450(b)(1)(iii)

Policies must be implemented to ensure that all restrictive procedures begin at the lowest level of the hierarchy unless there is documented evidence that less intrusive interventions have been tried and have been found to be ineffective.

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.

In emergency situations where an unanticipated behavior requires immediate protection of the client or others, the technique chosen is the least restrictive appropriate technique possible.

§483.450(b)(1)(iv) Address the following:

W279

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iv)(A) The use of time-out rooms;

Guidance §483.450(b)(1)(iv)(A)

"Time-out room" is defined as a separate room that is used to remove a client from stimulation that may be triggering and reinforcing maladaptive behavior. The facility must have written policies and procedures for the use of time out rooms which address all the requirements of 483.450 (c) (1-4) standard: time out room.

W280

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iv)(B) The use of physical restraints;

Guidance §483.450(b)(1)(iv)(B)

"Physical restraint" is defined as any manual hold or mechanical device that the client cannot remove easily, and which restricts the free movement of, normal functioning of, or normal access to a portion or portions of a client's body. Examples of mechanical devices may include arm splints and mittens.

Policies and Procedures must address:

- the types of physical restraint that are allowed in the facility;
- the persons who apply such restraints;
- the parameters for duration of application;
- the methods that assure the health and safety of clients while in restraints; and
- the specific training required for staff allowed to apply such restraints.

W281

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iv)(C) The use of drugs to manage inappropriate behavior;

Guidance §483.450(b)(1)(iv)(C)

Applicable policies may include a discussion of:

When a drug can be used to manage inappropriate behavior;

Consistency with diagnosis;

Alternatives tried before a drug is used;

Precautions that must be followed prior to and during the use (lab values, monitoring of side effects);

Implementation of a plan to address the behaviors for which the drug was prescribed; and

Plan to reduce the medication as appropriate.

Drugs to manage inappropriate behavior are defined as any medication prescribed and administered for purposes of modifying the maladaptive behavior of a client.

W282

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iv)(D) The application of painful or noxious stimuli;

Guidance §483.450(b)(1)(iv)(D)

“Application of painful or noxious stimuli” is defined as any procedure by which staff apply, contingent upon the exhibition of maladaptive behavior, startling, unpleasant, or painful stimuli, or stimuli that have a potentially noxious effect.

While the regulation permits the use of painful or noxious stimuli these techniques are the last resort and can only be utilized for behaviors that are causing significant harm and have not responded to competently administered interventions of less intrusive nature.

Facility policies must state that:

- The use of noxious stimuli is only permitted when the client exhibits behaviors so severe that they present a potential risk for significant or even life-threatening circumstances;
- the IDT and facility must weigh the potential risk of the behavior against the risk involved in the use of the painful or noxious techniques to manage behavior;
- that safeguards and strict oversight must be in place for consideration to use techniques that may be painful or even unpleasant;
- techniques that may be painful or noxious must be time limited;
- the proposed use of these techniques requires scrutiny of clinical effectiveness and specially constituted committee review; and
- on-going monitoring and safeguards must be in place during implementation of the technique.

W283

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iv)(E) The staff members who may authorize the use of specified interventions;

Guidance §483.450(b)(1)(iv)(E)

W284

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(1)(iv)(F) A mechanism for monitoring and controlling the use of interventions.

Guidance §483.450(b)(1)(iv)(F)

Facility policies must address what supervisory oversight is provided during the application of the intervention in order to ensure that procedures were followed correctly. Procedures should also address what retrospective analysis is done on each intervention to ensure that procedures are being consistently followed.

W285

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(2) Interventions to manage inappropriate client behavior must be employed with sufficient safeguards and supervision to ensure that the safety, welfare and civil and human rights of clients are adequately protected.

§483.450(b)(3) Techniques to manage inappropriate client behavior must never be used

W286

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(b)(3) for disciplinary purposes,

Guidance §483.450(b)(3)

No intervention, whether as a part of a formal program or in emergency situations (see W289) may be used as punishment, retaliation or retribution. A staff member cannot employ a behavior management technique simply because a client refuses to follow a staff request.

The implementation of all interventions, except in emergency situations, must be administered consistent with the IPP and the specific behaviors identified in the IPP requiring the intervention. Instances where an intervention is done as a punishment because the client did not comply with staff instructions and not associated with the IPP include:

- Personal property confiscated for behavior at staff discretion;
- Rights restricted without approved plans; and
- Punitive house rules, such as prohibiting reentry into the kitchen for snacks if a meal is not eaten completely.

W287**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.450(b)(3) for the convenience of staff****Guidance §483.450(b)(3)**

Inadequate numbers of staff, inefficient deployment of staff, and insufficient training of staff can lead to restrictive practices used for staff convenience.

Examples of techniques used to manage client behavior for staff convenience including, but are not limited to:

- Clients allowed to discipline other clients;
- Clients restricted to one area of the home; and
- Unauthorized use of restraints (e.g., lap trays, bean bags, gait belt, and merry walkers for the purpose of restricting movement)

W288**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.450(b)(3) or as a substitute for an active treatment program.****Guidance §483.450(b)(3)**

Substitutions for active treatment programming occur when the staff utilizes interventions and restrictive techniques on their own, either because there is not a formal behavioral program to address the client's behaviors or because the staff do not follow the plan as written.

W289**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.450(b)(4) The use of systematic interventions to manage inappropriate client behavior must be incorporated into the client's individual program plan, in accordance with §483.440(c)(4) and (5) of this subpart.****Guidance §483.450(b)(4)**

The use of behavior interventions are expected to be incorporated into the IPP and be based upon the results of the functional behavioral assessment.

However, there may be isolated and rare instances when a client exhibits unexpected behavior that requires immediate intervention on the part of the staff. In these instances, the least restrictive intervention must be employed and removed as soon as the client is no longer an immediate threat to self or others. The IPP team must then discuss the need for adding a behavioral plan into the clients program.

W290**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.450(b)(5) Standing or as needed programs to control inappropriate behavior are not permitted.****Guidance §483.450(b)(5)**

The staff of the facility may not maintain or use, outside of the IPPs, any list of "as needed" interventions that can be used with any client at any time. With the exception of isolated and rare emergency situations, all restrictive behavior interventions must be incorporated into the formal IPP and individualized for the client.

(c) Standard: Time-out rooms**W291****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.450(c)(1) A client may be placed in a room from which egress is prevented only if the following conditions are met:**

- (i) The placement is a part of an approved systematic time-out program as required by paragraph (b) of this section. (Thus, emergency placement of a client into a time-out room is not allowed.)
- (ii) The client is under the direct constant visual supervision of designated staff.
- (iii) The door to the room is held shut by staff or by a mechanism requiring constant physical pressure from a staff member to keep the mechanism engaged.

Guidance §483.450(c)(1)

Seclusion, defined as the placement of a client alone in a locked room, is never allowed.

Time out procedures allows a client to be alone in a room, but do not allow that room to be locked. During a time out procedure, egress can only be prevented by a person standing in the door way, or holding the door closed, but as soon as the staff move from the door way or let go of the door the client can come out.

Use of the timeout room or procedure must be part of an approved behavioral plan and may involve the separation of a client from a group or a particular situation, in a non- locked setting for the purpose of calming or removing the client from the reinforcing stimuli that are sustaining an identified maladaptive behavior.

Designated time out rooms must be set up so that the staff has continuous, direct observation of the client at all times. Because of the danger that staff can get distracted by other events or duties, this cannot be accomplished by a camera in lieu of the staff having direct visual of the client.

Key locks, latch locks, and doors that open inward without an inside doorknob are not permitted by the regulations for use in time out rooms as they do not require constant physical pressure from a staff member to keep the door shut. In each instance where a time out room is used, the client's IPP must include:

- The functional behavioral assessment which resulted in a recommendation for the use of time out procedures; and
- Instructions on how often data is to be collected during the time out period and the criteria for release from time out.

The use of a time out room must be approved by the Specially constituted committee as part of an approved program.

W292

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(c)(2) Placement of a client in a time-out room must not exceed one hour.

W293

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(c)(3) Clients placed in time-out rooms must be protected from hazardous conditions including, but not limited to, presence of sharp corners and objects, uncovered light fixtures, unprotected electrical outlets.

Guidance §483.450(c)(3)

Because placement in the time out room is typically secondary to extreme behaviors, it is acceptable that there be no furniture in this room.

A door that opens inward can potentially be held closed, either intentionally or inadvertently, by the client in the room, thereby denying staff immediate access to the room.

W294

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(c)(4) A record of time-out activities must be kept.

Guidance §483.450(c)(4)

The documentation in the client's record accurately reflects planned (e.g. part of the IPP) usage and presents a picture of events prior to, during, and following the use of time-out. The IPP should include direction as to how often data must be collected during each use of time out for each individual client.

(d) Standard: Physical restraints

§483.450(d)(1) The facility may employ physical restraint only- -

W295

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(1)(i) As an integral part of an individual program plan that is intended to lead to less restrictive means of managing and eliminating the behavior for which the restraint is applied;

Guidance §483.450(d)(1)(i)

The use of physical restraint is specified within the IPP. The plan must address:

- 1) The specific type of client behavior to be managed by this plan;
- 2) The less restrictive behavioral approaches which were previously used, but were unsuccessful;
- 3) The hierarchy of measures that must be utilized prior to the application of physical restraint;

- 4) The type of physical restraint;
- 5) The type of client behavior that would indicate that the patient is calm and can be released from the restraint; and
- 6) The replacement behavior being taught to the client to reduce the need for future restraints.

W296

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(1)(ii) As an emergency measure, but only if absolutely necessary to protect client or others from injury; or

Guidance §483.450(d)(1)(ii)

Physical restraint may be used as an emergency intervention only in situations where the client is exhibiting behaviors which:

- 1) the client has not exhibited before;
- 2) were not identified in the functional analysis of behavior; or
- 3) are harming other people or themselves.

When there are repeated episodes of the use of physical restraint as an emergency safety measure, these episodes should be assessed for their predictability by the IDT, and revisions to the IPP considered addressing the behaviors through a formal behavior plan in order to reduce/eliminate the use of physical restraint.

W297

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(1)(iii) As a health-related protection prescribed by a physician, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for client protection during the time that a medical condition exists.

Guidance §483.450(d)(1)(iii)

Physical restraint during medical procedures must be utilized only when absolutely necessary and be used as a last resort in order for the facility or practitioners to deliver needed medical care to the client. The restraint must be released as soon as the medical procedure is completed unless it is necessary to continue restraint for a longer period of time to continue to deliver care or to prevent the client from displacing tubes or dressings. These restraints may only be used as long as the physician indicates them to be necessary.

For instances where physical restraint are used by the facility or a practitioner during a medical procedure, the client record and interviews should verify that less restrictive measures were attempted before using physical restraint and verify whether any injuries occurred during the use of the physical restraint. Written orders by medical personnel for the application of a physical restraint should include the reason that the restraint is necessary, the type of restraint to be used and the length of time the restraint will be applied.

A restraint device used to prevent a client engaging in self-injurious behavior is not considered a restraint for medical condition.

§483.450(d)(2) Authorizations to use or extend restraints as an emergency measure must be:

Guidance §483.450(d)(2)

Facility policies should list who in the facility is allowed to authorize the emergency use of restraints or to extend the use of an emergency restraint, and the training that is required for those persons who may authorize. Documentation in the client record in those instances should confirm that the facility follows that policy.

W298

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(2)(i) In effect no longer than 12 consecutive hours; and

Guidance §483.450(d)(2)(i)

This regulation does not mean that restraints may be authorized to be applied for up to a 12 hour period. The client must be released from the physical restraint as soon as the client is no longer a risk to self or others. Once the behavior has ceased, the emergency has ended, and the client has been released, another authorization would be required for any new emergency situation.

The 12 consecutive hour period is the absolute maximum period of time that emergency physical restraint may be utilized for a client during an individual behavioral incident. It is reasonable to expect that the facility will reassess the emergency situation for any client who remains in physical restraint for longer than one hour and reassess the situation at least every 30 minutes thereafter up to 12 hours when the physical restraint must be removed.

W299

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(2)(ii) Obtained as soon as the client is restrained or stable.

Guidance §483.450(d)(2)(ii)

There may be instances where the maladaptive behaviors of a client or clients escalate into a serious and immediate event that must be de-escalated quickly in order to prevent harm to clients, staff, other clients, or by standers when incidents occur in the community. In these instances, the staff should contact the appropriate person to obtain authorization for the use of physical restraint as soon as the situation is stable. Retrospective documentation of the incident should confirm the need for authorization after application.

W300

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(3) The facility must not issue orders for restraint on a standing or as needed basis.

Guidance §483.450(d)(3)

All instances of physical restraint must be ordered on a case by case basis with individual assessment of the situation and authorization based upon the individual client. Authorizations should include the rationale for the use of the physical restraint versus other less restrictive measures.

W301

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(4) A client placed in restraint must be checked at least every 30 minutes by staff trained in the use of restraints,

Guidance §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 client. The facility should be checking the client often enough to adequately assess the physical status of the client (e.g., circulation, respiration and vital signs) of the client and the need to continued restraint. The more restrictive the intervention, the greater the risk to the client and the more often the client must be assessed. Frequent assessment will assure that the client will be released as soon as possible, however, in no instance may the staff go longer than 30 minutes without checking the client.

W302

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(4) released from the restraint as quickly as possible, and

Guidance §483.450(d)(4)

“As quickly as possible” means as soon as the client is no longer a danger to self or others. Documentation should support that the client was released from restraint as soon as they became calm.

W303

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(4) a record of these checks and usage must be kept.

§483.450(d)(5) Restraints must be designed and used

W304

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(5) so as not to cause physical injury to the client

Guidance §483.450(d)(5)

Physical restraints to include mechanical devices must be the correct size for the client and be applied with the correct amount of pressure according to manufacturer's directions. In addition to observation of any physical mechanical restraint in use at the time of the survey, review incident reports for any injuries as a result of restraint use.

W305

§483.450(d)(5) and so as to cause the least possible discomfort.

§483.450(d)(6) Opportunity for motion and exercise must be provided

W306

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(6) for a period of not less than 10 minutes during each two hour period in which restraint is employed,

Guidance §483.450(d)(6)

This requirement 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).

See 331 483.460(c) regarding surveillance of skin integrity during the use of medical restraints.

However, if a mechanical physical restraint is applied to an extremity to prevent a client from removing post-operative sutures, the restraint must be released every two (2) hours for a period of not less than ten (10) minutes in order to maintain adequate circulation.

Mechanical restraints placed on the client during sleeping hours must be medically based and specifically ordered by a physician. There should be evidence in the client's record why the mechanical physical restraint is necessary during sleeping hours. While it is not necessary to wake the client every two (2) hours to release the restraint and provide opportunity for exercise, the staff must check the restraint frequently during the night to ensure that the restraint is still properly applied and the client appears comfortable.

W307

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(6) and a record of such activity must be kept.

§483.450(d)(7) Barred enclosures

Guidance §483.450(d)(7)

A bed or play equipment with bars that prevent the client from leaving the bed or voluntarily climbing out of the bed are barred enclosures. The use of such enclosures must be a part of the written IPP and behavioral assessments must clearly state why such an enclosure is necessary, the risks of using the enclosure versus not using it and what less restrictive measures have been tried prior to the implementation of the barred enclosures.

Such devices may not be used in lieu of adequate staffing.

W308

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(7) must not be more than three feet in height and

W309

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(d)(7) must not have tops.

(e) Standard: Drug usage

§483.450(e) Standard: Drug Usage

W310

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(1) The facility must not use drugs in doses that interfere with the individual client's daily living activities.

Guidance §483.450(e)(1)

Clients are alert and available for participation in daily living activities.

Some medications administered for medical reasons or to manage behavior may cause drowsiness as a side effect or due to an accumulation of the drug in the client's system. For clients who are observed to be sleeping in chairs during their work day, their programs or recreational times, there should be evidence that the facility staff notified the medical

staff and an assessment was performed of the client including their medication regimen. Medical staff should make adjustments to address the issue if indicated.

§483.450(e)(2) Drugs used for control of inappropriate behavior must

W311

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(2) be approved by the interdisciplinary team and

Guidance §483.450(e)(2)

The physician and other team members discuss the risks and benefits of the medication to address the target behavior/symptoms, and approve the use of the drug as being consistent with the active treatment program. Decisions about the necessity of the use of drugs to manage inappropriate behavior should be made by the IDT. It is the responsibility of the IDT members to provide the physician with sufficient information regarding the need for a client to receive a drug for inappropriate behavior. The physician will make the ultimate decision to order the use of the drug. The IDT should document any disagreement with the physician's order.

In those instances where a client returns from a physician's visit with an order for an unsolicited drug to manage client's inappropriate behaviors, there must be evidence (e.g. IDT meeting notes or clients record) that the team concurred with the necessity for the order without trying less restrictive measures first and discussed any concerns with the physician.

W312

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(2) be used only as an integral part of the client's individual program plan that is directed specifically towards the reduction of and eventual elimination of the behaviors for which the drugs are employed.

Guidance §483.450(e)(2)

All medications to manage behavior must be integrated into the IPP and the IPP must specify how the specific target behavior for which the medication is prescribed will be reduced or eliminated. This includes medications which are typically used for medical conditions that may be used to manage behavior (e.g. 1. propranolol (Inderal), an antihypertensive used for self-injurious behavior, and 2. carbamazepine (Tegretol), an anticonvulsant, used for aggression).

Drugs for behavior management must not be ordered on a PRN basis for a client. The facility staff must contact the physician to obtain a one-time order if the situation necessitates the use of medication. The facility policy must address the maximum number of times a medication can be used as an emergency prior to being incorporated in the IPP, side effects of such medications, and the frequency of re-evaluation of ongoing behavior and its treatment.

Clients or their legal guardian have the right to choose sedation for medical and dental procedures. However, the facility cannot do routine administration of medication for sedation for medical and dental procedures without the agreement/consent of the client or their parent/legal guardian and they must follow the specific orders of the healthcare practitioner who will be providing services to the client. Decisions to order medications prior to medical and dental procedures must be made on an individual basis. Clients who demonstrate severe anxiety around these procedures should be considered for desensitization programs.

W313

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(3) Drugs used for control of inappropriate behavior must not be used until it can be justified that the harmful effects of the behavior clearly outweigh the potentially harmful effects of the drugs.

Guidance §483.450(e)(3)

The risk(s) associated with the drug being used is consistent with the type and severity of the behavior/symptoms it is intended to affect.

At the time the drug was started and incorporated into the IPP, the behaviors were discussed and presented to team members. It was the documented decision of the team that the behaviors were of such a severity that pharmacological

intervention was required and the physician was provided with the team information to assist him in his decision to prescribe the medication.

§483.450(e)(4) Drugs used for control of inappropriate behavior must be -

§483.450(e)(4)(i) Monitored closely,

W314

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(4) in conjunction with the physician and the drug regimen review requirement at §483.460(j),

Guidance §483.450(e)(4)

The physician and pharmacist must regularly review use of drugs for control of inappropriate behavior for their effectiveness in changing the targeted behavior/symptoms, untoward side effects, contraindications for continued use, and communicate this information to relevant staff.

W315

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(4) for desired responses and adverse consequences by facility staff; and

Guidance §483.450(e)(4)

Direct support staff members are the people who most closely and most frequently observe and record client behaviors. There should be evidence that the direct support staff receive information via the IPP as to the behaviors to be observed, the side effects associated with the medication, the amount and types of documentation required and the communication with clinical staff which is indicated. See 483.430 (e)(1) for training on observations, documentation and communication related to behavior management.

§483.450(e)(4)(ii) Gradually withdrawn

W316

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(4) at least annually

Guidance §483.450(e)(4)

Clients receiving medications to control behavior must be evaluated at least annually for a possible reduction of the medication progressing the client toward final elimination of the drug or lowest possible therapeutic level of the drug. However, evaluation should be done earlier than annually if observations indicate that the client's behavior has improved to the point that reduction may be considered as determined by the IPP, unless otherwise ordered by the client's physician.

W317

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.450(e)(4) in a carefully monitored program conducted in conjunction with the interdisciplinary team, unless clinical evidence justifies that this is contraindicated.

Guidance §483.450(e)(4)

The IDT is aware of and involved in planning the drug reduction program and participates in its implementation and monitoring.

Progress or regression of the client is monitored and taken into consideration in determining the rate of withdrawal and whether to continue withdrawal.

In determining whether there is clinical contraindication to the annual drug withdrawal, the physician and IDT should consider the client's clinical history, diagnostic/behavioral status, previous reduction/discontinuation attempts, and current regimen effectiveness.

If a client also has a diagnosis of a psychiatric condition that requires a stable level of a psychiatric medication in order to control the symptoms associated with the psychiatric diagnosis, the annual evaluation for reduction of that particular medication for the symptoms of the psychiatric diagnosis would not apply. Documentation in the client's record from their psychiatrist or physician that medication reduction would be contraindicated or that the current level of medications is therapeutic meets the intent of this regulation.

W318

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460 Condition of participation: Health care services

(a) Standard: Physician services

W319

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(1) The facility must ensure the availability of physician services 24 hours a day.

Guidance §483.460(a)(1)

A designated physician must be available via telephone, pager, e-mail or on-site in the facility on a 24 hour per day basis for consultation regarding both emergency and non-emergency medical issues. If the facility employs a fulltime physician, there must be procedures in place for coverage in the absence of the physician from the facility.

If the facility contracts with a community-based physician for 24 hour per day coverage, there must be written arrangements in place to detail the responsibilities of the contract physician regarding direct services to the clients, interactions with the direct support staff and the interactions between the nursing staff of the facility and the contract physician. The contract with the contract physician must delineate the process for coverage when he/she is not available.

Upon interview, the staff should be aware of the procedures they are to follow to contact a physician in the event of an illness or injury. Routinely sending clients to emergent care or the emergency room of a hospital because there are no facility physicians available for consultation is not consistent with the regulations.

Interview and record review verify that the physician is available and responsive 24 hours a day.

W320

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(2) The physician must develop, in coordination with licensed nursing personnel, a medical care plan of treatment for a client if the physician determines that an individual client requires 24-hour licensed nursing care.

Guidance §483.460(a)(2)

A medical care plan of treatment is developed for those clients who are either acutely ill and require licensed nursing care and monitoring temporarily on a 24 hour basis or clients whose chronic medical conditions require or indicate 24 hour licensed nursing care and monitoring. The physician determines when 24 hour nursing care is required.

The medical care plan is based upon the orders from the physician for treatments and care and nursing standards of practice. There is evidence in the client's record that the physician and the nursing staff at the facility work together to ensure that the medical care plan is current and appropriate (e.g. changes in physician written orders for care pursuant to observations from the nursing staff and/or direct observations and interactions with the client, and nursing documentation of care).

The fact that a client has a medical care plan in place should not preclude him/her from an active treatment program, except in instances of acute illness where the active treatment program is temporarily suspended. For clients with chronic medical conditions, it may be necessary for their active treatment program to be modified due to the tolerance level of the client or adapted to accommodate medical limitations. However, active treatment must be provided on a continuous basis.

W321

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(2) This plan must be integrated in the individual program plan.

Guidance §483.460(a)(2)

Although the medical care plan can be a separate document, it is always an integral part of the IPP process. There should be evidence that the plans are shared and discussed at the time of all interdisciplinary discussions and the information from the medical care plan is utilized in the development of the IPP objectives.

§483.460(a)(3) The facility must provide or obtain

W322

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(3) preventive and general care**Guidance §483.460(a)(3)**

The facility has procedures in place to ensure that the clients receive general health care services to assure optimal levels of wellness. General health care services include assessment and treatment of acute and chronic complaints or situations; teaching relevant health care principles to staff and clients; and periodic surveillance of the health status of the clients.

As a result of clinical assessment, referrals are made for specialized assessment and tests. Facility health care staff follow-up to ensure the assessments are done and the findings incorporated into the medical care plan and/or the IPP.

The facility must have arrangements in place to provide routine or episodic laboratory, and radiology services for the clients if not provided in-house or through the clients physician. There must be a written agreement that specifies the responsibilities of the facility and outside provider. (See §483.410(a)).

Preventive health care services include screening procedures designed to identify health concerns and initiate treatment as early as possible. The facility should have a health prevention program in place and follow the plan to address those screenings that the facility will perform periodically that are relevant to all clients, and those screenings associated with a particular gender or age or vulnerability.

Physician refusal to perform a test, such as a pap smear, must be consistent with guidelines for clients, per the local standard in the community.

If the facility has a physician that refuses to provide preventative healthcare based on the client's level of functioning, medical staff at the facility should meet with and consult with this physician in order to ensure that clients receive the same health services as persons living in the local community.

Refer to these websites for current recommended screenings: Agency for Healthcare Research and Quality (AHRQ)

For men: <http://www.ahrq.gov/ppip/healthymen.htm>

Centers for Disease Control (CDC)

For women: <http://www.cdc.gov/women/pubs/cancer.htm>

**§483.460(a)(3) as well as annual physical examinations of each client that at a minimum include the following:
W323**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(3)(i) Evaluation of vision and hearing;**Guidance §483.460(a)(3)(i)**

Information relevant to the client's ability to see and hear is a critical component in the development of appropriate active treatment strategies.

All clients, including clients who are non-verbal, should have evidence in his/her record that they receive an annual evaluation of their vision and hearing which includes a screening as a minimum, follow-up examination as indicated by the screen and timely referrals as indicated by the examination. Screening is a gross assessment of the client's vision and hearing and usually does not include a measurement of acuity. Examinations are conducted to follow-up on issues noted in the screening and are conducted by qualified professionals.

Clients who appear to have vision or hearing problems or the staff indicate that they have vision or hearing problems and no accommodations have been made. The annual vision and hearing evaluation verifies that clients appearing to have vision/hearing issues or if staff indicate that a client has vision/hearing issues that these issues have been/are being addressed.

If a client'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 the specialist's expressed recommendations. During discussions at the annual IPP review the team reviews information from the health professional, speech and hearing professional, and direct support staff and makes referrals back to the specialist if indicated.

W324

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(3)(ii) Immunizations, using as a guide the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on the Control of Infectious Diseases of the American Academy of Pediatrics;

Guidance §483.460(a)(3)(ii)

These immunization guides may be obtained from: American Academy of Pediatrics

www.aap.org/healthtopics/immunizations.cfm

Centers for Disease Control (CDC)

www.cdc.gov/vaccines/recs/schedule/default.htm.

W325

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(3)(iii) Routine screening laboratory examinations as determined necessary by the physician,

Guidance §483.460(a)(3)(iii)

The facility may have a set of routine laboratory tests which are to be done on every client annually which is developed and approved by the facility physician. However, such a list is not required. The physician may write orders individually for the clients based upon their medical history, age, gender or medical vulnerabilities.

W326

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(3)(iii) and special studies when needed;

W327

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(3)(iv) Tuberculosis control, appropriate to the facility's population, and in accordance with the recommendations of the American College of Chest Physicians or the section on diseases of the chest of the American Academy of Pediatrics, or both.

Guidance §483.460(a)(3)(iv)

The facility should have in place a system for the identification, reporting, investigation, and control of Tuberculosis (TB) in order to prevent its transmission within the facility. This system should include:

- 1) Policies and procedures for screening new employees, new clients, and other people who interact on a consistent basis with clients residing in the facility when those persons are volunteers or professional staff hired or utilized directly by the facility (such as volunteers and contract professional staff);
- 2) Policies and procedures for subsequent screening for clients and for employees, and other people (such as volunteers and contract professional staff) who interact on a consistent basis with clients residing in the facility when those persons are volunteers or professional staff hired or utilized directly by the facility per State Health Department requirements;
- 3) Policies and procedures for reporting positive TB test results to the appropriate State authorities;
- 4) Policies for the investigative procedures, per the local health department, that would be put in place should a client or staff person test positive for TB;
- 5) Policies and procedures for treatment and precautions to be used with clients who display TB symptoms, as substantiated by positive skin testing or x-ray results; and
- 6) Policies and procedures for the evaluation of the effectiveness of the surveillance system.

When one or more clients or staff display TB symptoms, as substantiated by positive skin testing or x-ray results, they do not return to work until a physician has cleared them to return to work.

W328

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(a)(4) To the extent permitted by State law, the facility may utilize physician assistants and nurse practitioners to provide physician services as described in this section.

Guidance §483.460(a)(4)

Refer to the applicable State Nurse Practice Act or applicable Board of Medicine Practice Act to determine the extent that the nurse practitioner or physician assistant may provide physician services.

(b) Standard: Physician participation in the individual program plan**§483.460(b) A physician must participate in-****W329****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(b)(1) The establishment of each newly admitted client's initial individual program plan as required by §456.380 of this chapter that specifies plan of care requirements for ICFs; and****Guidance §483.460(b)(1)**

During the admission process, which takes place from the time the client is admitted to the facility to the time the initial IPP is completed, a physician is required to ensure that an assessment of the client's medical status is thoroughly considered and incorporated into the IPP planning process by the team as it develops the IPP. The physician's input may be by means of written reports, evaluations, and recommendations.

The physician (consistent with Medicaid Utilization Control regulations at §456.380) must evaluate the client at the time of admission to identify all diagnoses and complaints, provide orders for all medications and treatments and provide recommendations for restorative and rehabilitative services.

§456.380 requires that a physician conduct this initial assessment therefore, it may not be done by a physician extender (e.g., Physician assistant or Advanced Practice Registered Nurse).

W330**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(b)(2) If appropriate, physicians must participate in the review and update of an individual program plan as part of the interdisciplinary team process either in person or through written report to the interdisciplinary team.****Guidance §483.460(b)(2)**

The need for physician participation on an individual client's IPP team is determined by the medical needs of the client. How the physician participates (whether through written report, telephone consultation, attendance at the meeting, etc.) is to be left to the discretion of the facility. In instances where a client has no overriding medical issues, the nurse of the facility can represent the medical component on the IDT process or consult with the appropriate physician and share the information with the team. However, in situations where a client's medical condition is unstable/fragile to the extent that it impacts the training/work that may be planned, the physician must participate in providing guidance on the types and extent of programs that would be appropriate considering the client's physical/medical limitations.

If a client is noted to be having difficulty participating in the objectives set forth in his/her IPP due to serious medical concerns, review the input that was provided by the physician into the development of the plan and whether the IPP team requested such input.

(c) Standard: Nursing services**W331****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(c) The facility must provide clients with nursing services in accordance with their needs.****Guidance §483.460(c)**

The nurse responds in a timely manner to all medical concerns reported, conducts assessments as indicated, effects timely and appropriate interventions, communicates with the client's physicians and other health care professionals as indicated, provides treatments as ordered, monitors client progress following illness or injury and provides training to clients and/or staff as indicated.

§483.460(c) These services must include**W332****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(c)(1) Participation as appropriate in the development, review, and update of an individual program plan as part of the interdisciplinary team process;****Guidance §483.460(c)(1)**

For those clients who have had an uneventful year medically and have no medical/health concerns at the time of the IPP meeting the facility nurse may submit a summary report to the IDT unless the IDT determines that his/her attendance is necessary. An eventful year medically would include a year which required unplanned hospital admissions or in which medical issues necessitated treatment for a prolonged or continuing period. However when a client has had an eventful year medically or current medical/health concerns, this could have an impact on their objectives and accordingly the nurse should participate in the IDT discussion directly.

W333

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(2) The development, with a physician, of a medical care plan of treatment for a client when the physician has determined that an individual client requires such a plan;

Guidance §483.460(c)(2)

A medical care plan addresses those clinical treatments and observations that are to be done for the client by the medical staff and other staff of the facility in order to either improve an acute medical condition or to maintain a medically fragile client as clinically stable as possible. The medical care plan is an adjunct to the IPP and is not considered a substitution for the IPP.

§483.460(c)(3) For those clients certified as not needing a medical care plan, a review of their health status which must-

W334

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(3)(i) Be by a direct physical examination;

Guidance §483.460(c)(3)(i)

A direct physical examination means a visual review of the body as well as examination/assessment of body systems. This includes observations made through non- verbal communication (including visual, tactile, nonverbal gestures, grimaces, etc.) which may be an indication that there is a potential for further assessment and/or monitoring. A paper review of the client's medical record and health statistics does not meet the intent of the regulation for a direct physical examination.

W335

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(3)(ii) Be by a licensed nurse;

Guidance §483.460(c)(3)(ii)

The term "licensed nurse", for purposes of these guidelines, means a registered nurse, a licensed practical nurse or a licensed vocational nurse currently licensed by the State in which the facility is located. The nurse must operate consistent with the requirements of the applicable Nurse Practice Act. If this direct physical examination is done by a physician, it is not necessary for the nurse to repeat the exam.

W336

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(3)(iii) Be on a quarterly or more frequent basis depending on client need;

Guidance §483.460(c)(3)(iii)

"On a quarterly basis" means that the examinations are conducted approximately 90 days apart (e.g. scheduled to be conducted approximately once every 90 days). If during the course of a calendar year, there were three quarterly examinations conducted by a licensed nurse and in the fourth quarter the annual physical examination was performed by a physician, the intent of this requirement is met without the nurse performing an additional examination.

W337

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(3)(iv) Be recorded in the client's record; and

Guidance §483.460(c)(3)(iv)

The actual findings of each examination and the date conducted must be incorporated into the client's record.

W338

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(3)(v) Result in any necessary action (including referral to a physician to address client health problems).

Guidance §483.460(c)(3)(v)

The nursing staff document that referrals are made in a timely manner, if indicated, for any concerns identified. Nurses must ensure all concerns they identify are communicated and addressed appropriately, including:

- Need is fully identified in assessment;
- Appropriate referrals are made;
- Revisions are made to IPP/Medical care plan; and
- Follow-up occurs to the new plan.

W339

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(4) Other nursing care as prescribed by the physician or as identified by client needs; and

Guidance §483.460(c)(4)

Nursing interventions are implemented as indicated by the needs of the client and consistent with either standard nursing practice principles or orders from the attending physician. Health and wellness are actively promoted, problems are attended to before they negatively impact the client's health and wellness, and steps are taken to prevent the recurrence of such problems while responding promptly to client's needs.

Client health care complaints that are reported either directly by the client or by the direct care staff are addressed promptly by the nursing staff. Client health care complaints and response by nursing staff are documented in the client's record.

§483.460(c)(5) Implementing with other members of the interdisciplinary team, appropriate protective and preventive health measures that include, but are not limited to –

W340

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(5)(i) Training clients and staff as needed in appropriate health and hygiene methods;

Guidance §483.460(c)(5)(i)

Nursing staff periodically provides training to clients and staff on how to care for health needs or conditions, personal hygiene, health maintenance, and disease prevention. Nursing staff actively participates in periodic discussions with client and staff to promote health habits in the areas of diet, exercise and non-smoking.

Based upon individual training needs, the nursing staff provides training to individuals in areas such as medications, family planning, prevention of sexually transmitted diseases, control of other infectious diseases, self-monitoring of health status and self-prevention of health problems, etc. The nurses may train clients directly on their objectives or train other staff to do this training as appropriate.

W341

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(5)(ii) Control of communicable diseases and infections, including the instruction of other personnel in methods of infection control; and

Guidance §483.460(c)(5)(ii)

Nursing staff should actively participate in surveillance and reporting of communicable diseases per the Centers for Disease Control (CDC) guidelines and applicable state laws. They should teach and promote infection control techniques such as hand washing by clients and staff and should be making periodic observations to ensure that such good infection control techniques are consistently utilized.

W342

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(c)(5)(iii) Training direct care staff in detecting signs and symptoms of illness or dysfunction, first aid for accidents or illness, and basic skills required to meet the health needs of the clients.

Guidance §483.460(c)(5)(iii)

Nursing staff must train and ensure direct support staff demonstrate competency in detecting signs and symptoms of illness, injury, or change in the client's health baseline (e.g. responsiveness, fatigue, irritability, constipation, diarrhea, dehydration, confusion, unexplained weight loss, changes in endurance and changes in respiratory function).

Staff is responsive to health care needs or injuries of clients and receives instruction and support during temporary illness of clients.

If not, review staff training records to determine whether training was provided periodically to the involved employee. Interview direct care staff to determine their level of understanding regarding the signs and symptoms of illness that are to be reported to the medical staff. The records of clients with recent hospitalizations verify that staff detected and reported relevant symptoms promptly.

(d) Standard: Nursing staff

W343

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(d)(1) Nurses providing services in the facility must have a current license to practice in the State.

Guidance §483.460(d)(1)

The facility should have a procedure in place to ensure that any contract nursing staff members are currently licensed prior to the provision of services. Include any contract nurses used by the facility in the sample of nurses reviewed for licensure.

W344

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(d)(2) The facility must employ or arrange for licensed nursing services sufficient to care for clients' health needs including those clients with medical care plans.

Guidance §483.460(d)(2)

The facility provides for nursing services based on the health needs and conditions of clients residing there. Examples include:

- 1) physician ordered treatments that require the skills of a licensed nurse;
- 2) preventive screenings;
- 3) assessment and intervention;
- 4) direct physical examination and examination of body systems;
- 5) teaching; and
- 6) advocacy for the medical services needed by the client.

Client health care needs are met in a timely manner (within 24 hours) by the available nursing staff.

If nurses who do not have experience in the care of persons with intellectual disabilities are employed by the facility, they should be provided with a formal orientation period and on-going educational opportunities to increase their understanding of the client population.

When one or more clients in the facility has an active medical care plan, there must be 24 hour nursing services available to come to the facility as needed to make skilled assessments and interventions.

W345

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(d)(3) The facility must utilize registered nurses as appropriate and required by State law to perform the health services specified in this section.

Guidance §483.460(d)(3)

Refer to the applicable State Nurse Practice Act.

W346

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(d)(4) If the facility utilizes only licensed practical or vocational nurses to provide health services, it must have a formal arrangement with a registered nurse to be available for verbal or onsite consultation to the licensed practical or vocational nurse.

Guidance §483.460(d)(4)

The facility must have written arrangements with a registered nurse (RN) to provide consultation in those instances where LPNs/LVNs provide all the direct nursing care for the clients. Verify that the agreement requires the RN to respond promptly to all calls from the LPN/LVN and to come on-site to the facility if necessary. The facility must also ensure registered nurse back-up when the primary registered nurse consultant is unavailable (vacations, etc.). Review documentation in the client records to confirm that the LPNs/LVNs of the facility are consulting the registered nurse consultant when indicated and that she/he responds promptly to such calls.

W347

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(d)(5) Non- licensed nursing personnel who work with clients under a medical care plan must do so under the supervision of licensed persons.

The work of any direct support staff (caring for clients with a medical care plan) is directed by an onsite licensed nurse). The nurse evaluates the care provided by the staff as needed, but at least each shift. If observations of care indicate that direct care staff are not providing care as directed by the medical care plan, then review the supervision provided by the nursing staff.

(e) Standard: Dental services

W348

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(e)(1) The facility must provide or make arrangements for comprehensive diagnostic and treatment services for each client from qualified personnel, including licensed dentists and dental hygienists either through organized dental services in-house or through arrangement.

Guidance §483.460(e)(1)

It is expected that the clients will obtain dental services (both diagnostic and treatment) from community dentists whenever possible. In some instances, there may be clients residing in the facility who are physically unable to travel to the community for services. The facility must secure dental services (both diagnostic and treatment) for these clients either through an in-house program, which is part of the organizational and administrative structure of the facility, or through a written agreement with an outside dental service to come into the facility to provide such services.

W349

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(e)(2) If appropriate, dental professionals must participate, in the development, review and update of an individual program plan as part of the interdisciplinary process either in person or through written report to the interdisciplinary team.

Guidance §483.460(e)(2)

Reports of dental care may be submitted to the IDT for inclusion in their discussions surrounding either development of the plan or update to the plan. This includes procedures a client may have had or be having during the plan development period, such as root canal or singular extractions. Actual attendance at the IDT meeting by the dentist may be left to the request of the IDT.

W350

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(e)(3) The facility must provide education and training in the maintenance of oral health.

Guidance §483.460(e)(3)

Formal or informal training in the maintenance of oral hygiene is provided to clients who require it, and to those staff who are responsible for carrying out such activities. The IPP should include an assessment of the client's ability to perform oral hygiene independently and an associated program if the client is not independent.

(f) Standard: Comprehensive dental diagnostic services

§483.460(f) Comprehensive dental diagnostic services include

W351

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(f)(1) A complete extraoral and intraoral examination, using all diagnostic aids necessary to properly evaluate the client's condition not later than one month after admission to the facility (unless the examination was completed within twelve months before admission);

Guidance §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.

A complete intraoral examination includes an oral cancer screen.

§483.460(f)(2) Periodic examination and diagnosis performed

W352

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(f)(2) at least annually,

Guidance §483.460(f)(2)

Dental examinations occur no less frequently than annually. Clients without teeth must receive an annual oral cancer screening examination by a dental professional.

W353

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(f)(2) including radiographs when indicated and detection of manifestations of systemic disease; and

Guidance §483.460(f)(2)

There should be evidence in dental reports that dentists follow current standards of practice for the performance of x-rays in order to assist in the diagnosis and treatment of the client.

W354

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(f)(3) A review of the results of examination and entry of the results in the client's dental record.

Guidance §483.460(f)(3)

The entry referenced at this regulation is the dental entry into the dental record. See W359 for requirement of copying this dental record into the facility record.

(g) Standard: Comprehensive dental treatment

§483.460(g) The facility must ensure comprehensive dental treatment services that include- -

W355

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(g)(1) The availability for emergency dental treatment on a 24-hour-a-day basis by a licensed dentist; and

Guidance §483.460(g)(1)

The facility should be able to produce upon request, a written contract/agreement between the facility and a licensed dentist for 24/7 guidance/provision of emergency services for the clients. The agreement should also indicate what back-up coverage will be provided when the dentist is not available.

W356

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(g)(2) Dental care needed for relief of pain and infections, restoration of teeth, and maintenance of dental health.

(h) Standard: Documentation of dental services

§483.460(h)(1) If the facility maintains an in-house dental service, the facility must

W357

keep a permanent dental record for each client,

W358

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(h)(1) with a dental summary maintained in the client's living-unit.

Guidance §483.460(h)(1)

The “dental summary” refers to the summary of each visit entered by the dental professional. The note includes any care instructions to be followed up by facility staff as a result of treatment.

§483.460(h)(2) If the facility does not maintain an in-house dental service, the facility must

W359

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(h)(2) obtain a dental summary of the results of dental visits

Guidance §483.460(h)(2)

The facility should receive a written report of each dentist visit for inclusion in the client’s record at the facility and for reference by the medical and direct support staff.

W360

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(h)(2) and maintain the summary in the client’s living unit.

See guideline above at W359.

(i) Standard: Pharmacy services

W361

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(i) The facility must provide or make arrangements for the provision of routine and emergency drugs and biologicals to its clients. Drugs and biologicals may be obtained from community or contract pharmacists or the facility may maintain a licensed pharmacy.

Guidance §483.460(i)

The facility either has an onsite pharmacy or has formal arrangements in place for the provision of routine, unanticipated, or emergency drugs. There are no instances where a client does not receive needed medications due to the unavailability of drugs.

(j) Standard: Drug regimen review

W362

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(j)(1) A pharmacist with input from the interdisciplinary team must review the drug regimen of each client at least quarterly.

Guidance §483.460(j)(1)

The primary function of the pharmacist during the quarterly drug review is to identify possible drug interactions, check for evidence of any side effects associated with the drug usage, determine if laboratory results associated with the drug are within normal limits and verify that the facility is administering the medication appropriately and to comment upon the efficacy of the drug use (e.g. blood sugar controlled, blood pressure within normal limits). In the case of drugs used to manage behavior, the pharmacist may need information from the IDT to determine efficacy. See Appendix PP, Indicators for Surveyor Assessment of the Performance of Drug Regimen Reviews, to the State Operations Manual (Pharmaceutical Service Requirements in Long Term Care Facilities).

W363

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(j)(2) The pharmacist must report any irregularities in clients’ drug regimens to the prescribing physician and interdisciplinary team.

Guidance §483.460(j)(2)

The physician and IDT members must discuss, document and take necessary follow-up action for any irregularities noted.

W364

§483.460(j)(3) The pharmacist must prepare a record of each client’s drug regimen reviews and the facility must maintain that record.

W365

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(j)(4) An individual medication administration record must be maintained for each client.

W366

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(j)(5) As appropriate the pharmacist must participate in the development, implementation, and review of each client's individual program plan either in person or through written report to the interdisciplinary team.

Guidance §483.460(j)(5)

Pharmacist participation on the IDT is at the request of the team. It would not be necessary for the pharmacist to routinely attend all team meetings when the client is on a stable drug regimen that does not appear to be influencing his/her active treatment programs. Pharmacist participation may be appropriate, in situations such as assisting the IDT develop the most effective training programs for when the client is in an evolving situation with their medication.

For example:

- A client begins a new or more complex drug regimen;
- The physician orders off-label use of a medication;
- Frequent changes in the drug regimen are affecting IPP implementation.

(k) Standard: Drug administration

W367

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(k) The facility must have an organized system for drug administration that identifies each drug up to the point of administration.

§483.460(k) The system must assure that

W368

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(k)(1) All drugs are administered in compliance with the physician's orders;

Guidance §483.460(k)(1)

Administration errors identified in previous medication administration records qualify as non-compliance with physician's orders.

W369

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(k)(2) All drugs, including those that are self-administered, are administered without error;

Guidance §483.460(k)(2)

A medication error is an observed discrepancy during the medication pass between what is ordered and what is administered.

This also applies to self-administered medications.

For small facilities (16 beds or less), the medication administration pass will encompass a total of eight (8) drug doses. The observations should be split between two separate drug passes 4/4 (one in the morning and one in the late afternoon or early evening). The medications observed during the observations may or may not be for clients in the survey sample. Any concerns regarding a medication that is about to be administered should be brought to the attention of the person administering the medication. The record of observation should be reconciled with the most current signed physician's orders.

For large facilities (17 or more beds) with either single or multiple buildings, the medication administration pass will encompass a total of 12 doses. The observations should be split between two separate passes 6/6 (one in the morning and one in late afternoon or early evening). Any concerns regarding a medication that is about to be administered should be brought to the attention of the person administering the medication. The record of observation should be reconciled with the most current signed physician's orders.

W370

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(k)(3) Unlicensed personnel are allowed to administer drugs only if State law permits;

Guidance §483.460(k)(3)

Unlicensed personnel administer only those forms of medication which state law permits. Licensed nurse(s) in the facility oversee any administration of medications by unlicensed persons and periodically evaluate their performance.

W371**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

§483.460(k)(4) Clients are taught to administer their own medications if the interdisciplinary team determines that self-administration of medications is an appropriate objective, and if the physician does not specify otherwise;

Guidance §483.460(k)(4)

The IDT decision that a self-administration program is appropriate, as is the case for all formal training objectives, must be based upon accurate, current, valid assessment of the client's skills and potential. The determination as to the appropriateness of a self-administration program must never be made singularly on the client's diagnosis or current functional abilities.

For clients assessed to be inappropriate for a self-administration program, but determined by the IDT to possess the capacity to functionally, cognitively, emotionally or developmentally benefit from participation in the drug administration process, it is expected that the facility will provide opportunities for the client to participate in the medication administration process under direct supervision. This participation can include but is not limited to, identifying the medication taken, reaching/grasping a cup of water during the process and placing oral medications in the mouth, etc.

W372**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

§483.460(k)(5) The client's physician is informed of the interdisciplinary team's decision that self-administration of medications is an objective for the client;

Guidance §483.460(k)(5)

While the IDT may set an objective of self administration of medication for a client, they are required to notify the client's physician of this proposed objective. If the client's physician objects on medical grounds, the team must not proceed with the objective until such time as a discussion is held with the physician and he/she agrees to proceed after receiving additional information.

W373**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

§483.460(k)(6) No client self-administers medication until he or she demonstrates the competency to do so;

Guidance §483.460(k)(6)

The written self-administration program for a client must detail the criteria that will be employed by the facility staff to verify that the client successfully completes all phases of the program and continues to comply with all necessary requirements for self administration. Clients who self-administer medications must secure all medications in such a manner as to protect access by other clients or visitors.

W374**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

§483.460(k)(7) Drugs used by clients while not under the direct care of the facility are packaged and labeled in accordance with State law;

Guidance §483.460(k)(7)

When clients go out of the facility for home visits, or to attend work or school, drugs they are taking must be packaged and labeled in accordance with state law by a person authorized by state law to package and label.

§483.460(k)(8) Drug administration errors and adverse drug reactions are

Guidance §483.460(k)(8)

Documentation of any medication error should be entered into the client's record and should include what error was made, who was notified of the error, the response of the medical person notified, the physical condition of the client at the time of the notification and subsequent observations of the clients physical condition related to the error.

W375**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(k)(8) recorded****Guidance §483.460(k)(8)**

Documentation of adverse drug reactions must be entered into the client's record and should include all complaints made by the client or observations made by the staff following the drug administration, the notification of medical personnel, and the response of the medical personnel, any emergency actions that were required and all subsequent observations of the client's condition related to the reaction.

W376**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(k)(8) and reported immediately to a physician.****Guidance §483.460(k)(8)**

"Immediately" means at the time the error or reaction is identified.

(l) Standard: Drug storage and recordkeeping**§483.460(l)(1) The facility must store drugs under proper conditions of****Guidance §483.460(l)(1)**

Drugs are stored according to manufacturer's recommendations.

W377**sanitation,****W378****temperature,****W379****light,****W380****humidity,****W381****and security.****W382****§483.460(l)(2) The facility must keep all drugs and biologicals locked except when being prepared for administration.****W383****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(l)(2) Only authorized persons may have access to the keys to the drug storage area.****Guidance §483.460(l)(2)**

"Authorized persons" is restricted to those who administer the drugs (as allowed by state law) and nursing supervisors (if any). No other personnel should have access to these keys.

W384**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.460(l)(2) Clients who have been trained to self-administer drugs in accordance with §483.460(k)(4) may have access to keys to their individual drug supply.****Guidance §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 client is generally the only one who has access to his/her drug supply (with perhaps the exception of a licensed nurse or whoever has overall responsibility for medication administration at the facility and 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.

W385**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

§483.460(l)(3) The facility must maintain records of the receipt and disposition of all controlled drugs.**Guidance §483.460(l)(3)**

The facility must follow state requirements for the control and disposition of controlled drugs.

W386

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(l)(4) The facility must, on a sample basis, periodically reconcile the receipt and disposition of all controlled drugs in schedules II through IV (drugs subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801 et seq., as implemented by 21 CFR Part 308).**Guidance §483.460(l)(4)**

The facility should follow state requirements for the reconciliation of controlled drugs.

W387

§483.460(l)(5) If the facility maintains a licensed pharmacy, the facility must comply with the regulations for controlled drugs**§483.460(m) Standard: Drug Labeling****§483.460(m)(1) Labeling of drugs and biologicals must**

W388

§483.460(m)(1)(i) Be based on currently accepted professional principles and practices; and

W389

§483.460(m)(1)(ii) Include the appropriate accessory and cautionary instructions, as well as the expiration date, if applicable.**§483.460(m)(2) The facility must remove from use--**

W390

§483.460(m)(2)(i) Outdated drugs; and

W391

§483.460(m)(2)(ii) Drug containers with worn, illegible, or missing labels.

W392

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(m)(3) Drugs and biologicals packaged in containers designated for a particular client must be immediately removed from the client's current medication supply if discontinued by the physician.**(n) Standard: Laboratory services**

W393

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(n)(1) If a facility chooses to provide laboratory services, the laboratory must meet the requirements specified in part 493 of this chapter.**Guidance §483.460(n)(1)**

If the facility performs laboratory services, it must have a current, valid Clinical Laboratory Improvement Amendment (CLIA) certificate for the types of tests it is performing.

For the purposes of this regulation, 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.

W394

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.460(n)(1) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of service in accordance with the requirements of part 493 of this chapter.**Guidance §483.460(n)(1)**

A facility performing any laboratory service or test must have applied to CMS, and received a Certificate of Waiver, Certificate of Compliance, or Certificate of Accreditation. An application for a Certificate of Waiver may be made if

the facility performs only those tests on the waived list. A complete list of waived tests can be found at: <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfClia/analyteswaived.cfm>.

If the facility performs any test, not appearing on the waived list, a Certificate of Compliance or Certificate of Accreditation is required. An appropriate CLIA certificate is required regardless of the frequency with which the laboratory services or tests are conducted. When no tests are performed, a CLIA certificate is not needed. Facilities only collecting specimens and not performing testing do not need a certificate.

A not-for-profit, a state, or local government organization may have one certificate covering all the facilities it operates (e.g., 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. This exception applies only to laboratories performing limited public health testing. See State Operations Manual (SOM) 6008. Each location where a laboratory tests are performed must file a separate application to be separately certified unless the laboratory meets one if the exceptions outlined at 42CFR493.35(b), 493.443(b), or 493.55(b).

Any laboratory located in a state that has a CMS-approved laboratory program is exempt from CLIA certification. Currently there are two states with approved programs: Washington and New York. New York has a partial exemption; therefore, if the laboratory is located in New York, contact the New York State Agency to determine if the exemption applies.

W406

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.470 Condition of participation: Physical environment. (a) Standard: Client living environment.

W407

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(1) The facility must not house clients of grossly different ages, developmental levels, and social needs in close physical or social proximity unless the housing is planned to promote the growth and development of all those housed together.

Guidance §§483.470(a)(1)

Clients of grossly different ages, functional levels, and/or social needs should not be housed together unless all of the following documentation supports the placement:

- Assessment;
- Client program plan;
- Staff documentation of client response to training programs; and
- QIDP notes.

W408

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(2) The facility must not segregate clients solely on the basis of their physical disabilities. It must integrate clients who have ambulation deficits or who are deaf, blind, or have seizure disorders, etc., with others of comparable social and intellectual development.

(b) Standard: Client bedrooms.

(1) Bedrooms must- -

W409

§483.470(b)(1)(i) Be rooms that have at least one outside wall

W410

§483.470(b)(1)(ii) Be equipped with or located near toilet and bathing facilities;

W411

§483.470(b)(1)(iii) Accommodate no more than four clients unless granted a variance under paragraph (b)(3) of this section;

§483.470(b)(1)(iv) measure

W412

At least 60 square feet per client in multiple client bedrooms

W413

And at least 80 square feet in single client bedrooms; and

W414

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(v) In all facilities initially certified, or in buildings constructed or with major renovations or conversions on or after October 3, 1988, have walls that extend from floor to ceiling.

Guidance §483.470(b)(l)(v)

If a facility was initially certified on or after October 3, 1988 and/or is under renovations or conversions, they must have walls that extend floor to ceiling.

W415

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(2) If a bedroom is below grade level, it must have a window that--

(i) Is usable as a second means of escape by client(s) occupying the room; and

(ii) Is no more than 44 inches (measured to the window sill) above the floor unless the facility is surveyed under the Health Care Occupancy Chapter of the Life Safety Code, in which case the window must be no more than 36 inches (measured to the window sill) above the floor.

Guidance §483.470(b)(2)

The intent of the regulation is to prohibit the housing of clients in basements that are entirely below grade. Clients may be housed on the lower level of housing (e.g. a bi-level house), provided the window height requirements are met and the window is of sufficient size to be used as a means of escape.

W416

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(3) The survey agency may grant a variance from the limit of four clients per room only if a physician who is a member of the interdisciplinary team and who is a qualified intellectual disabilities professional--

(i) Certifies that each client to be placed in a bedroom housing more than four persons is so severely medically impaired as to require direct and continuous monitoring during sleeping hours; and

(ii) Documents the reason why housing in a room of only four or fewer persons would not be medically feasible.

Guidance §483.470(b)(3)

The medical care plan for each client housed in a room with more than four clients should indicate the need for continuous monitoring. The medical care plan will include:

- the physician certification that the client is severely medically impaired and requires direct and continuous monitoring during sleeping hours; and
- the reason why this housing arrangement for fewer than four people would not be medically feasible.

(4) The facility must provide each client with—

W417

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(i) A separate bed of proper size and height for the convenience of the client;

Guidance §483.470(b)(4)(i)

The client's preference, chronological age, and physical and medical needs are the determining factors in bed size and height.

W418

§483.470(b)(4)(ii) A clean, comfortable, mattress;

W419

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(iii) Bedding appropriate to the weather and climate; and

W420

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(iv) Functional furniture, appropriate to the client's needs,

Guidance §483.470(b)(4)(iv)

Client preferences and program needs should be considered in furniture selection. For clients with physical disabilities, furniture is adapted to accommodate the client's physical challenges and enable the client to use the furniture with minimal support.

W421

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

and individual closet space in the client's bedroom with clothes racks and shelves accessible to the client.

Guidance §483.470(b)(4)(iv)

Closets should have enough space for a reasonable amount of the current season's clothing.

Clients who use wheelchairs or have other physical challenges can reach the racks and shelves in their closets.

The facility is permitted either to provide the client 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 client closet space in the bedroom, is not an acceptable practice.

(c) Standard: Storage space in bedrooms.

The facility must provide—

W422

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(1) Space for equipment for daily out-of-bed activity for all clients who are not yet mobile, except those who have a short-term illness or those few clients for whom out-of-bed activity is a threat to health and safety; and

Guidance §483.470(c)(1)

Sufficient space that permits the use of wheelchairs, walkers and other adaptive equipment should be provided within the bedroom.

W423

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(2) Suitable storage space, accessible to clients, for personal possessions, such as TVs, radios, prosthetic equipment and clothing.

Guidance §483.470(c)(2)

Each client should have storage in their bedroom for their personal belongings. Clients should have free access to this storage without the assistance of staff. If it is necessary for clients' personal belongings to be locked due to the behavior of other clients, the client must still be provided free access to his own possessions (See W137 for requirements for locked areas).

(d) Standard: Client bathrooms

The facility must—

W424

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(1) Provide toilet and bathing facilities appropriate in number, size, and design to meet the needs of the clients;

Guidance §483.470(d)(1)

In a home setting, the toilet facilities need to be of sufficient number to meet the needs of the client without prolonged delay. There must be enough toilets in the living units to meet the program needs of the clients at any given time, as well as provide for intermediate toileting needs of the clients living in the unit.

In a home setting, it may be unrealistic to say a client would never have to wait for a shower or bath or to brush his/her teeth.

Bathrooms and fixtures must be adapted to accommodate clients with physical disabilities.

W425

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(2) Provide for individual privacy in toilets, bathtubs, and showers; and

Guidance §483.470(d)(2)

A bathroom containing multiple toilets, showers or bathtubs, must have doors, curtains, or some other means of protecting the client from view when fully or partially unclothed.

Clients should not be able to be seen through the door or window by passersby when they are using the bathrooms.

Client privacy does not preclude the assistance provided by facility staff when necessitated by the client's condition.

W426

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(3) In areas of the facility where clients who have not been trained to regulate water temperature are exposed to hot water, ensure that the temperature of the water does not exceed 110° Fahrenheit.

(e) Standard: Heating and ventilation.

(1) Each client bedroom in the facility must have--

W427

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(i) At least one window to the outside; and

Guidance §483.470(e)(1)(i)

(See also W415)

W428

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(ii) Direct outside ventilation by means of windows, air conditioning, or mechanical ventilation.

(2) The facility must—

W429

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(i) Maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means; and

Guidance §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 80 degrees Fahrenheit in facilities in most geographic areas of the country.

In extremely hot or extremely cold weather, precautions are taken by the facility to protect the clients, particularly those who are medically compromised, from ill effects of the temperature.

W430

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(ii) Ensure that the heating apparatus does not constitute a burn or smoke hazard to clients.

Guidance §483.470(e)(2)(ii)

Refer to Life Safety Code Chapters 32 and 33

Unvented fuel fired heaters are prohibited. NFPA 101 2000 Edition.

32/33.2.5.23

(f) Standard: Floors.

The facility must have—

W431

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(1) Floors that have a resilient, nonabrasive, and slip-resistant surface.

W432

§483.470(f) (2) Nonabrasive carpeting, if the area used by clients is carpeted and serves clients who lie on the floor or ambulate with parts of their bodies, other than feet, touching the floor; and

§483.470(f) (3) Exposed floor surfaces and floor coverings that

W433

promote mobility in areas used by clients,

W434

and promote maintenance of sanitary conditions.

§483.470(g) Standard: Space and Equipment**The facility must--****W435****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

(1) Provide sufficient space and equipment in dining, living, health services, recreation, and program areas (including adequately equipped and sound treated areas for hearing and other evaluations if they are conducted in the facility) to enable staff to provide clients with needed services, as required by this subpart and as identified in each client's individual program plan.

Guidance §483.470(g)(1)

Staff and clients must have the space, materials and equipment needed to implement formal and informal active treatment programs.

There must be sufficient space to accommodate group activities, including groups with clients who use wheelchairs.

Recreational supplies, equipment, and materials are available and reflect the interests, physical abilities and chronological age of the clients.

W436**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

(2) Furnish, maintain in good repair, and teach clients to use and to make informed choices about the use of dentures, eyeglasses, hearing and other communications aids, braces, and other devices identified by the interdisciplinary team as needed by the client.

Guidance §483.470(g)(2)

The term "furnish" means that the facility is responsible for obtaining or purchasing these items once an assessment has identified the need and is responsible for making any necessary arrangements for the client to receive them. Clients' personal funds should not be used for these items since this is a covered service under the ICF/IID benefit.

The term "maintain in good repair" means that the facility is responsible for ensuring that these items are kept in good working order, and is responsible for any resulting expense that may be incurred.

Programs must be in place, when identified by assessment and determined by the ID team, to teach clients about the use and care for their equipment to the extent of their capabilities.

W437**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

(3) Provide adequate clean linen and dirty linen storage areas.

Guidance §483.470(g)(3)

Clean linen must be separated from dirty linen and stored in a manner which prevents contamination.

Linen soiled with bodily fluids must be stored separately and in a manner which protects clients from exposure to possible infectious sources.

A bedroom hamper can be an acceptable dirty linen storage "area" if kept odor free and consistent with the infection control requirements at §483.470(1).

(h) Standard: Emergency plan and procedures.**W438****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

(1) The facility must develop and implement detailed written plans and procedures to meet all potential emergencies and disasters such as fire, severe weather, and missing clients.

Guidance §483.470(h)(1)

These plans may include identification of transportation and alternative shelter needs in cases when the facility must be evacuated and may incorporate state-specific emergency preparedness requirements as applicable.

W439**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)**

(2) The facility must communicate, periodically review, make the plan available, and provide training to the staff.

Guidance §483.470(h)(2)

“Periodic review” is a judgment made by the facility based on the circumstances of the facility. If the facility changes its physical plant or if changes external to the facility necessitates a review of the disaster plan, then the facility is responsible for carrying out the review.

Interview staff about where emergency plans and procedures are located and what the facility policy is regarding how often, and under what circumstances the plans and procedures are reviewed and updated.

(i) Standard: Evacuation drills.**(1) The facility must hold evacuation drills****W440**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

at least quarterly for each shift of personnel

Guidance §483.470(i)(1)

Life Safety Code NFPA 101, 2000 Edition (LSC):

Chapter 32/33 code: Clients have to participate in an evacuation drill each shift at least quarterly.

Chapter 18/19 code: There must be an evacuation drill on each shift at least quarterly. This drill is designed to train staff on evacuation procedures.

Review facility records to verify that evacuations drills are held each shift at least once in each 3-month period.

Refer to (S&C 10-26-LSC)

W441

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

and under varied conditions to—

Guidance §483.470(i)(1)

Life Safety Code NFPA 101, 2000 Edition (LSC):

Chapter 32/33: Expects that all clients living in that unit are capable of self-evacuation during an emergency. This self evacuation should be practiced under varying conditions including various times of the day or night and in various weather conditions.

Chapter 18/19: Requires drills which simulate emergency situations which familiarize facility staff with emergency actions they may be required to perform. The general emphasis of these sections of the code is upon training of the staff and not upon providing practice for the client. Drills should be practiced under varying conditions including various times of the day or night and in various weather conditions.

W442

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(i) Ensure that all personnel on all shifts are trained to perform assigned tasks;

Guidance §483.470(i)(1)(i)

For facilities under Chapter 18/19 of the LSC

Staff should be able to verbalize the proper procedures to be followed during emergency drills. Staff training records should document that all staff have received training on emergency drills and evacuations.

W443

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(ii) Ensure that all personnel on all shifts are familiar with the use of the facility’s fire protection features; and

Guidance §483.470(i)(1)(ii)

Staff on all shifts are able to express familiarity with the use of fire extinguisher, alarms, and any other safety features in the facility.

W444

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(iii) Evaluate the effectiveness of emergency and disaster plans and procedures.

Guidance §483.470(i)(1)(iii)

See also W448. The plan(s) must be revised as needed and must be based upon analysis completed under W448.

The facility must--

W445

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(i) Actually evacuate clients during at least one drill each year on each shift;

Guidance §483.470(i)(2)(i)

All clients totally evacuate the building at least once per year per shift, regardless of the occupancy chapter under which the building falls.

All facilities, regardless of their size require actual evacuation. “Actually evacuate”, as used in this standard, applies to all clients. The drills are conducted not only to rehearse the clients and staff for a fire emergency (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.

W446

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(ii) Make special provisions for the evacuation of clients with physical disabilities;

Guidance §483.470(i)(2)(ii)

Clients with physical or medical disabilities may require special procedures for evacuation, taking into account equipment or staff that must be maintained for the client’s care at all times. The facility’s evacuation plan should:

- identify such clients;
- clearly delineate any special evacuation procedures for those clients.

Staff should be familiar with the facility’s special evacuation procedures when working with clients who are in need of unique provisions.

W447

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(iii) File a report and evaluation on each evacuation drill;

Guidance §483.470(i)(2)(iii)

There is a written report of each evacuation drill held.

W448

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(iv) Investigate all problems with evacuation drills, including accidents,

Guidance §483.470(i)(2)(iv)

The documentation for each evacuation drill includes an analysis of:

- The timeliness of the evacuation;
- Any difficulties observed during the drill;
- Investigates the cause of the difficulties; and
- Develops a plan to ensure the difficulties will not reoccur.

W449

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

and take corrective action; and

Guidance §483.470(i)(2)(iv)

When a problem is identified during the evacuation drill and the facility develops a plan to prevent reoccurrence, there is evidence the facility implemented corrective action and follow-up completed to ensure corrective action was successful.

W450

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(v) During fire drills, clients may be evacuated to a safe area in facilities certified under the Health Care Occupancies Chapter of the Life Safety Code.

Guidance §483.470(i)(2)(v)

The Life Safety Code NFPA 101, 2000 Edition at 3.3.167 defines safe location as “a location remote or separated from the effects of a fire so that such effects no longer pose a threat.”

W451

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(3) Facilities must meet the requirements of paragraph (i)(1) and (2) of this section for any live-in and relief staff they utilize.

Guidance §483.470(i)(3)

In the case of live-in staff, drills must occur quarterly. Typically, live-in staff can be found in facilities that fall under Chapter 32/33 of the LSC code. Drills should be held at varying times of the day and night for clients to practice evacuation including morning, afternoon, evening and the middle of the night.

(j) Standard: Fire protection.

Guidance §483.470(j)

These standards are covered by the Life Safety Code (LSC) survey. The facility must meet the appropriate chapter of the Life Safety Code, 2000 edition.

When surveying an ICF/IID for compliance with the LSC, it is first necessary to determine whether the facility will be surveyed under Health Care (HC) or Board and Care (BC) occupancy.

- If clients receive nursing services, or if the provider elects to use Health Care, the facility should be surveyed as a Health Care Facility under Chapter 18 or 19 of the LSC, as appropriate.

- If clients receive personal care and protective oversight but not continuing nursing services, the facility is to be surveyed under Board and Care and the following three steps should be followed:

- 1) Determine the size (16 or less = small; 17 or more = large);
- 2) Determine the Evacuation Difficulty (PROMPT, SLOW, or IMPRACTICAL) using Appendix F of the fire safety evaluation system for board and care facilities (FSES/BC); and
- 3) Survey the building using one of two methods:
 - a. The prescriptive requirements of Chapters 32 or 33; or
 - b. The FSES/BC, Appendix G.

(1) General. Except as otherwise provided in this section—

(i) The facility must meet the applicable provisions of either the Health Care Occupancies Chapters or the Residential Board and Care Occupancies Chapter of the 2000 edition of the Life Safety Code of the National Fire Protection Association. The Director of the Office of the Federal Register has approved the NFPA101®2000 edition of the Life Safety Code, issued January 14, 2000, for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. If any changes in this edition of the Code are incorporated by reference, CMS will publish notice in the Federal Register to announce the changes.

(ii) Chapter 19.3.6.3.2, exception number 2 of the adopted LSC does not apply to a facility.

Guidance §483.470(j)(1)(ii)

Roller latches are prohibited on corridor doors as a latching device.

(2) The State survey agency may apply a single chapter of the LSC to the entire facility or may apply different chapters to different buildings or parts of buildings as permitted by the LSC.

(3) A facility that meets the LSC definition of a residential board and care occupancy must have its evacuation capability evaluated in accordance with the Evacuation Difficulty Index of the Fire Safety Evaluation System for Board and Care facilities (FSES/BC).

Guidance §483.470(j)(3)

The evacuation capability of residents is determined using Chapter 6 of NFPA 101A, 2001 edition.

4) If CMS finds that the State has a fire and safety code imposed by State law that adequately protects a facility's clients, CMS may allow the State survey agency to apply the State's fire and safety code instead of the LSC.

5) Beginning March 13, 2006, a facility must be in compliance with Chapter 19.2.9, Emergency Lighting.

Guidance §483.470(j)(5)

Battery powered emergency lighting must last at least 90 minutes.

6) Beginning March 13, 2006, Chapter 19.3.6.3.2, exception number 2 does not apply to a facility.

Guidance §483.470(j)(6)

Roller latches are prohibited on corridor doors as a latching device.

(7) Facilities that meet the LSC definition of a health care occupancy.

(i) After consideration of State survey agency recommendations, CMS may waive, for appropriate periods, specific provisions of the Life Safety Code if the following requirements are met:

Guidance §483.470(j)(7)(i)

Waivers may be granted only to facilities that meet the Life Safety Code definition of a Health Care Occupancy.

Waivers are not granted to facilities that met the requirements of a Residential Board and Care Occupancy.

Waivers are recommended by the State Survey Agency and approved by the Regional Office.

(A) The waiver would not adversely affect the health and safety of the clients.

B) Rigid application of specific provisions would result in an unreasonable hardship for the facility.

ii) Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a facility may install alcohol-based hand rub dispensers if—

(A) Use of alcohol-based hand rub dispensers does not conflict with any State or local codes that prohibit or otherwise restrict the placement of alcohol-based hand rub dispensers in health care facilities;

(B) The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

(C) The dispensers are installed in a manner that adequately protects against inappropriate access;

D) The dispensers are installed in accordance with chapter 18.3.2.7 or chapter 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00–1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004. The Director of the Office of the Federal Register has approved NFPA Temporary Interim Amendment 00–1(101) for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the amendment is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD and at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269; and

(E) The dispensers are maintained in accordance with dispenser manufacturer guidelines

(k) Standard: Paint.

The facility must—

W452

§483.470(k)(1) Use lead-free paint inside the facility; and

W453

§483.470(k)(2) Remove or cover interior paint or plaster containing lead so that it is not accessible to clients.

§483.470(l) Standard: Infection Control

W454

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(1) The facility must provide a sanitary environment to avoid sources and transmission of infections.

Guidance §483.470(l)(1)

The facility is clean and staff have eliminated opportunities for cross-contamination of infections. Food is stored, prepared, distributed, and served in a sanitary manner to prevent food borne illness.

W455

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

There must be an active program for the prevention, control, and investigation of infection and communicable diseases.

Guidance §483.470(l)(1)

Facilities maintain an ongoing surveillance program of communicable disease control and investigation of infections and an active training program that ensures the clients served receive adequate prevention of transmission information and skills, according to needs.

The facility's infection control program should include procedures for:

- identification of the extent of infestation or infection;
- protection of clients;
- treatment of clients;
- notification of family or legal guardian;
- reporting to the health department as indicated; and
- continued follow-up to resolution.

Both the Occupational Safety and Health Administration (OSHA) and the CDC have specific requirements regarding human immuno-deficiency virus (HIV), TB, and hepatitis precautions. These requirements should be incorporated into the facility's practices when relevant to the clients residing in the facility. Concerns about OSHA violations should be referred to OSHA.

W456

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(2) The facility must implement successful corrective action in affected problem areas.

W457

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(3) The facility must maintain a record of incidents and corrective actions related to infections.

W458

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

(4) The facility must prohibit employees with symptoms or signs of a communicable disease from direct contact with clients and their food.

Guidance §483.470(l)(4)

The facility should have and implement a policy that clearly delineates those signs and symptoms for which they will restrict staff access to clients or to clients' food.

W459

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480 Condition of participation: Dietetic services

(a) Standard: Food and nutrition services

W460

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(a)(1) Each client must receive a nourishing, well balanced, diet including modified and specially prescribed diets.

Guidance §483.480(a)(1)

"Well balanced diets" are defined as diets that contain a variety of foods from the food groups currently recommended by the Academy of Nutrition and Dietetics (AND).

"Modified and specially-prescribed" diets are defined as diets that are altered in any way to enable the client to eat (e.g. food that is chopped, pureed) or diets that are intended to correct or prevent a nutritional deficiency or health problem.

Refer to W463 and W474 regarding modified and specially prescribed diets.

The following may be indicators of or may lead to compromised nutritional status:

- Unplanned significant weight gain or loss;

- Fever/infection;
- Diarrhea;
- Chronic disease;
- Chewing and Swallowing problems;
- Teeth and gum diseases;
- Excessive use of laxatives;
- Abnormal laboratory values;
- Brittle, dry hair;
- Ridged or spoon shaped nails;
- Dry flaky skin; and
- Unexplained change in mood such as general fatigue, apathy, irritability, lack of concentration.

If one or more of these indicators are present, determine the facility's response through observation, interview, and record review.

Surveyors should assure the facility is responsive to client food allergies and the potential for adverse food/drug interactions. If surveyors suspects these may exist, investigate further.

Examples of facility responsiveness to allergies and food/drug interactions include, but are not limited to:

- Clients on long term anticonvulsant drug regimens (e.g., phenobarbital, phenytoin, primidone) are periodically monitored per facility policy for decreased serum levels of folic acid and vitamin D;
- Therapeutic doses of nutrients are provided to decrease the likelihood of anemia and prevent decreased bone density, etc.; and
- Fiber and fluids are increased in the diet of clients to decrease the likelihood of constipation.

Guidance §483.470(a)(1)

Clients of grossly different ages, functional levels, and/or social needs should not be housed together unless all of the following documentation support the placement:

- Assessment;
- Client program plan;
- Staff documentation of client response to training programs; and
- QIDP notes.

W461

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(a)(2) A qualified dietitian must be employed either full-time, part-time, or on a consultant basis at the facility's discretion.

Guidance §483.480(a)(2)

The facility employs a registered dietitian either on a part-time, full-time or on a consultant basis.

W462

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(a)(3) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food services.

Guidance §483.480(a)(3)

Where the facility does not have a full-time qualified dietitian, verify that the director of food services coordinates with a dietitian to assure the nutritional adequacy of meals and snacks.

The food service director coordinates with the part-time or consultant dietitian to develop client meal plans and monitor client nutritional status.

The qualifications of the food service director may be dictated by facility policy or by state law, if applicable.

In small group home settings where the staff and clients plan and prepare meals cooperatively, there may not be a designated food services director. In these cases, the consultant or part-time dietitian would meet with the available home staff to ensure adequacy of menus and diets.

§483.480(a)(4) The client's interdisciplinary team, including a qualified dietitian and physician must prescribe

W463**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.480(a)(4) all modified and special diets****W464****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.480(a)(4) including those used as a part of a program to manage inappropriate client behavior.****Guidance §483.480(a)(4)**

Modifying a clients' diet must never be used as punishment.

W465**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.480(a)(5) Foods proposed for use as a primary reinforcement of adaptive behavior are evaluated in light of the client's nutritional status and needs.****Guidance §483.480(a)(5)**

This regulation addresses the use of food in shaping positive adaptive behavior. Where clients have specialized nutritional needs, these needs must be taken into consideration.

When food is used as a primary reinforcement of behavior for a client who has a dietary restriction, these foods should be consistent with the foods allowed by the prescribed diet.

Food used as a reinforcement must be part of a behavior plan approved by the IDT and consistent with nutritional parameters for that client. For example, a client with diabetes does not receive concentrated sweets as a reinforcement.

W466**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.480(a)(6) Unless otherwise specified by medical needs, the diet must be prepared at least in accordance with the latest edition of the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, adjusted for age, sex, disability and activity.****Guidance §483.480(a)(6)**

For suggested guidelines write to:

U.S. Department of Agriculture

Human Nutrition Information Services

Washington, D.C. 20250

<http://fnic.nal.usda.gov>**(b) Standard: Meal services****W467****(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.480(b)(1) Each client must receive at least three meals daily,****Guidance §483.480(b)(1)**

Meal times may be flexible and accommodate a variety of activities (e.g. holiday and weekend activities). Clients should be offered the opportunity of three meals every day, but may be given the choice of not participating in a meal due to their schedule or preference.

For example, a client wakes up late on a Saturday morning and decides to have brunch.

W468**(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)****§483.480(b)(1) at regular times comparable to normal mealtimes in the community****Guidance §483.480(b)(1)**

Generally, meal times conform to the norms of the community, however the clients' schedules and preferences may result in slight variations. Slight variations are acceptable, but gross variations such as breakfast at 3 am would not be acceptable.

§483.480(b)(1) with –**W469**

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(1)(i) Not more than 14 hours between a substantial evening meal and breakfast of the following day,

Guidance §483.480(b)(1)(i)

A “substantial evening meal” is defined as an offering of three or more items at one time, one of which includes a high quality protein such as meat, fish, eggs, or cheese. The meal should represent no less than 20 percent of the day’s total nutritional requirements.

W470

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(1)(i) except on weekends and holidays when a nourishing snack is provided at bedtime, 16 hours may lapse between a substantial evening meal and breakfast; and

Guidance §483.480(b)(1)(i)

A “nourishing snack” is an offering of items, single or in combination, from the basic food groups. Snack supplies are available in the facility and are accessible to clients. Interview staff and clients about their access to snacks.

W471

§483.480(b)(1)(ii) Not less than 10 hours between breakfast and the evening meal of the same day, except as provided under paragraph (b)(1)(i).

§483.480(b)(2) Food must be served--

Facility Practices §483.480(b)(2)(i)

Portions served, either by staff or by the individuals themselves, closely match designated serving sizes on menus. Slight variations are not significant enough or frequent enough to affect individual’s health.

W472

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(2)(i) In appropriate quantity;

Guidance §483.480(b)(2)(i)

Meal observations verify that portions served, either by staff or by the clients, match the designated serving sizes on menus.

W473

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(2)(ii) At appropriate temperature;

Guidance §483.480(b)(2)(ii)

Hot foods are served hot and cold foods are served cold, according to facility policy specific to the type of food or as desired by the client. The facility follows current state requirements for safe food temperatures.

W474

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(2)(iii) In a form consistent with the developmental level of the client; and

Guidance §483.480(b)(2)(iii)

The term “form”, as used in this requirement, refers to food consistency (e.g., pureed, chopped, ground, etc.). Food that is ground, chopped or pureed is based on assessed client need, and only to the extent required.

Food consistency modifications due to an acute medical or dental condition are temporary and; client’s food consistency is upgraded at the soonest possible time. Clients with chronic medical or dental conditions are periodically reviewed and at least annually for the possibility of an upgrade in food consistency.

Client assessments must document the justification for modified texture of the client’s diet.

W475

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(2)(iv) With appropriate utensils.

Guidance §483.480(b)(2)(iv)

“Appropriate utensils” refers to eating utensils and adaptive eating equipment that enable clients to eat as independently as possible in accordance with their highest functional level.

Commonly used utensils (fork, knife, and spoon) appropriate to the food being consumed are provided to all clients except those using adaptive equipment instead. Clients should be afforded the opportunity to use forks, spoons, and knives as indicated by the food served.

Utensils must be in good condition, clean, allow portion sizes appropriate to the client’s prescribed diet and meet the client’s needs.

W476

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(b)(3) Food served to clients individually and uneaten must be discarded.

Guidance §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 clients fingering or drooling in the food) compromise the safety and nutritive value for later consumption of the food.

(c) Standard: Menus

W477

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(c)(1)(i) Be prepared in advance;

Guidance §483.480(c)(1)(i)

The facility should be able to produce a copy of client menus prospectively to verify that meal planning is done in advance.

W478

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(c)(1)(ii) Provide a variety of foods at each meal;

Guidance §483.480(c)(1)(ii)

A “variety” of food at each meal includes offerings from each of the food groups.

W479

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(c)(1)(iii) Be different for the same days of each week and adjusted for seasonal changes; and

Guidance §483.480(c)(1)(iii)

Menus should make use of seasonal foods in order to capitalize on the availability of fresher more vitamin enriched foods.

In certain portions of the country, there may be cultural preferences that influence the frequency with which a food appears on the menu. This is acceptable in the facility if it is acceptable in the community.

W480

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(c)(1)(iv) Include the average portion sizes for menu items.

Guidance §483.480(c)(1)(iv)

Verify the menu lists client portion sizes and observe that the portions served correspond to the clients prescribed diet.

W481

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(c)(2) Menus for food actually served must be kept on file for 30 days.

(d) Standard: Dining areas and service

§483.480(d) The facility must –

W482

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(1) Serve meals for all clients, including persons with ambulation deficits, in dining areas, unless otherwise specified by the interdisciplinary team or a physician;

Guidance §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.

When a client is not eating in a designated dining area, there must be either a medical rationale or this must be an isolated instance when the client has a personal reason to eat in another area, such as a television area to watch his or her favorite program.

Interview with the client should confirm that this is not routine, but is for a particular isolated reason.

W483

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(2) Provide table service for all clients who can and will eat at a table, including clients in wheelchairs;

Guidance §483.480(d)(2)

Clients must have the opportunity to participate in the normal dining experience with their companions in the dining room.

Clients in wheelchairs are included in dining groupings of their peers without physical disabilities.

Clients in wheelchairs eat at the table and not with lap trays/hospital trays unless medically contraindicated.

W484

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(3) Equip areas with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each client;

Guidance §483.480(d)(3)

Clients use adaptive equipment or are being trained to use such equipment when the need is identified in the IPP.

Examples of adaptive equipment that may be needed are:

- Double suction cups or other devices to anchor dishes on a table or tray for clients with major coordination problems;
 - Rocking one-handed knife-fork or knife-spoon for a client 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 client 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 a client without normal wrist motions;
- and
- Any other adaptive device deemed by the team as needed by the client to eat more independently.

W485

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(4) Supervise and staff dining rooms adequately

Guidance §483.480(d)(4)

There should be sufficient staff to implement eating programs for clients who require them and to provide necessary intervention and supervision for normalization including normal meal time behavior.

Client mealtime should not be inadequately delayed due to insufficient staff assistance.

W486

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(4) to direct self-help dining procedures,

Guidance §483.480(d)(4)

Staff is present during meal times to monitor clients who are able to eat independently, promoting, supporting, reinforcing and encouraging them to eat in an appropriate and normalized manner (e.g., manners, social behaviors, etc.)

W487

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(4) to assure that each client receives enough food and

Guidance §483.480(d)(4)

Clients can request and receive second helpings unless contraindicated by a prescribed diet.

For clients on restrictive diets that prefer not to be on these diets or seek seconds, the facility resolves the personal choice issues vs. health risks.

W488

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(4) to assure that each client eats in a manner consistent with his or her developmental level; and

Guidance §483.480(d)(4)

The intent of this regulation is to promote the acquisition of skills that lead to greater independence in eating.

Clients should be actively encouraged to eat independently to the extent possible and in accordance with their assessed abilities.

Clients should receive training to develop independent eating skills consistent with their developmental potential as identified through the CFA.

Clients learn skills in accordance with their functional levels. Skills may include:

- Use of utensils;
- Meal preparation;
- Socialization during meals;
- Family style dining; and
- Ordering food in restaurants.

Clients' eating programs are implemented in accordance with their training objectives.

To the maximum extent possible, staff model appropriate mealtime behavior and conversation by sitting at the table with clients, and when possible, eating meals with clients.

W489

(Rev. 135, Issued: 02-27-15, Effective: 04-27-15, Implementation: 04-27-15)

§483.480(d)(5) Ensure that each client eats in an upright position, unless otherwise specified by the interdisciplinary team or a physician.

Guidance §483.480(d)(5)

If a client eats in any position other than an upright position, the physician should document the medical necessity for the position, and/or the IPP should include the program plan to teach the client the physical skill necessary for eating upright.

This applies to all clients, including those fed by nasogastric tube or gastrostomy tube. The IPP should identify the most appropriate position for the client to be positioned during mealtime, in relation to the placement of the food contents.

[ARC 3109C, IAB 6/7/17, effective 7/12/17]

◇ Two or more ARCs

¹ See Interpretive Guidelines at end hereof

² See IAB, Inspections and Appeals Department.

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.

“*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.

“*Dependent adult abuse*” is as defined in rule 481—52.1(235E).

“*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.

"Primary care provider" means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"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.) or a physician assistant; 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 waiver 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 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.

[ARC 0766C, IAB 5/29/13, effective 7/3/13; ARC 1204C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15; ARC 6974C, IAB 4/5/23, effective 5/10/23]

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. Waivers from 481—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; and

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.

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.

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 5719C, IAB 6/16/21, effective 7/21/21]

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) Waivers. Waivers from these rules may be granted by the director of the department when:

1. The need for a waiver 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 waiver will apply only to a specific intermediate care facility for the mentally ill.

Waivers shall be reviewed at least at the time of each licensure survey and any other time by the department to see if the need for the waiver is still acceptable.

65.4(1) To request a waiver, the licensee must:

a. Apply in writing on a form provided by the department;

b. Cite the rule or rules from which a waiver is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain how the waiver is consistent with the résumé of care or the individual program plan; and

e. Demonstrate that the requested waiver will not endanger the health, safety, welfare or rights of any resident.

65.4(2) Upon receipt of a request for waiver, the director will:

- a.* Examine the rule from which the waiver is requested;
- b.* Evaluate the requested waiver 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 waiver 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 waiver from the requirement for qualification of a mental health professional.

65.4(3) Based upon this information, approval of the waiver will be either granted or denied within 120 days of receipt.

[ARC 0766C, IAB 5/29/13, effective 7/3/13; ARC 5719C, IAB 6/16/21, effective 7/21/21]

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) 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.

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

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)

Refer to Guideline for Infection Control in Hospital Personnel, 1998, Centers for Disease Control, U.S. Department of Health and Human Services, to determine (1), (2), (3) and (4).

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)

The staffing plan shall ensure that at least one qualified direct care staff person is on duty to carry out and implement the individual program plans. (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 waived 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. A personnel record shall be kept for each employee. (III)

b. 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)

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; ARC 1205C, IAB 12/11/13, effective 1/15/14]

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 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. (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)

e. 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 481—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)

e. 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(3) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons, based on the resident's needs and determined and documented in the resident's record by the primary care provider;

b. The resident's social, emotional or physical well-being or that of other residents, as documented by the administrator or designee with specific information to support the determination that the resident's continued presence in the facility would adversely affect the resident's own well-being or that of other residents;

c. Due to action pursuant to Iowa Code chapter 229; or

d. Nonpayment for the resident's stay, as described in the admission agreement for the resident's stay. (I, II, III)

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 the resident's legal representative. (II, III)

a. The notice 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, that reads as follows:

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 the department's receipt of your request and you will not be transferred before a final decision is rendered. In emergency circumstances, provision may be made for extension of the 14-day requirement upon request to the department designee. If you lose the hearing, you will not be transferred before the expiration date of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. 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. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 65.16(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's legal representative, and notification is given to the legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 65.16(6).

65.16(5) *Involuntary transfer or discharge—emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that 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 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 the department's receipt of your request. 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 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)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 65.16(6).

65.16(6) *Involuntary transfer or discharge—hearing.*

a. Request for hearing.

- (1) The resident must request a hearing within 7 days of receiving written notice.
- (2) The request must be made to the department, either in writing or verbally.
 - b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.
 - c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)
 - d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 9. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.
 - e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident and the resident's legal representative not later than five full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the resident's legal representative that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal 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.
 - f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and resident's legal representative within 10 working days after the hearing has been concluded.

65.16(7) *Nonpayment.* 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)

65.16(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's legal representative, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

- a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)
- b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)
- c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 65.16(6) and emergency notice is provided within 48 hours.

65.16(9) *Involuntary discharge or transfer—transfer or discharge planning.*

- a. 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)
- b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)
- c. The counseling requirement in paragraph 65.16(9)“b” does not apply if the discharge has already occurred pursuant to subrule 65.16(5) and emergency notice is provided within 48 hours.
- d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)
- e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

65.16(10) *Transfer upon revocation of license or voluntary closure.* 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 the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

This rule is intended to implement Iowa Code section 135C.14(8).

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15; ARC 3523C, IAB 12/20/17, effective 1/24/18]

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 be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA). In the case of a resident who has been certified by the resident's physician or physician assistant (PA) as capable of taking the resident's own insulin, the resident may prepare and inject the resident's own 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)

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 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.

[ARC 1050C, IAB 10/2/13, effective 11/6/13]

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)

c. Canning food is prohibited. The facility may freeze fruits, vegetables, and meats provided strict sanitary procedures are followed and in accordance with recommendations in the "Food Service Sanitation Manual," revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C. (II)

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 dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic 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. Rescinded ARC 1205C, IAB 12/11/13, effective 1/15/14.

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 preadmission 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 are non-English-speaking or deaf or hard of hearing, steps shall be taken to translate the information into a foreign or sign language. Blind residents shall be provided either Braille or a recording. 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 hard-of-hearing, 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, neglect, and physical injury. (I, II)

65.25(4) *Allegations of dependent adult abuse.* Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

65.25(5) *Report of abuse.* Rescinded IAB 12/11/13, effective 1/15/14.

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 of names.* The facility shall post in a prominent area the name, telephone number, and address of the survey agency, local law enforcement agency, administrator, members of the board of directors, corporate headquarters, and the protection and advocacy agency designated pursuant to Iowa Code section 135C.2(4) and the text of Iowa Code section 135C.46 to provide to residents another course of redress. (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)

This rule is intended to implement Iowa Code section 135C.14 and Iowa Code chapter 235E.

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1204C, IAB 12/11/13, effective 1/15/14; ARC 5711C, IAB 6/16/21, effective 7/21/21]

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, “Finings 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(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.

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.

These rules are intended to implement Iowa Code sections 135C.2(6), 135C.4, 135C.6(2), 135C.6(3), 135C.7, 135C.8, 135C.14, 135C.16(2), 135C.23, 135C.24, 135C.25, 135C.31, and 227.4.

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[Filed ARC 6974C (Notice ARC 6834C, IAB 1/25/23), IAB 4/5/23, effective 5/10/23]

CHAPTER 66 BOARDING HOMES

481—66.1(1350) Definitions.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting, and ambulation.

“Affiliated person or entity” means an individual operating as a sole proprietorship who is related within the third degree of consanguinity to the boarding home owner or lessee; or a business entity with common ownership or with 25 percent or more ownership by the boarding home owner or lessee.

“Assistance” means aid or help.

“Assistance with activities of daily living” does not mean routine, total dependence on staff for the performance of activities of daily living or nursing care.

“Boarding home” means a premises used by its owner or lessee for the purpose of letting rooms for rental to three or more persons not related within the third degree of consanguinity to the owner or lessee where supervision or assistance with activities of daily living is provided to such persons. A boarding home does not include a facility, home, or program otherwise subject to licensure or regulation by the department of human services, the department of inspections and appeals, or the department of public health.

“Commencing operations” means the date on which a premises becomes a boarding home by renting to a third individual who meets the requirements pursuant to the definition of “boarding home.”

“Department” means the department of inspections and appeals.

“Director” means the director of the department of inspections and appeals.

“Known” means information that an owner, a lessee, or a manager possesses without seeking additional information from tenants.

“Lessee” means a person who leases the boarding home from its owner.

“Multidisciplinary team” means a team consisting of members of various departments as is appropriate for an investigation. The team may include employees of the department of inspections and appeals, the department of human services, the state fire marshal and the division of criminal investigation of the department of public safety, the department of justice, or other local, state, and federal agencies.

“Premises” means a room and the structure of which it is a part and facilities and appurtenances to it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

“Preponderance of the evidence” means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. A “preponderance of the evidence” standard does not require that the investigator personally witnessed the alleged violation.

“Probable cause” means a reasonable suspicion to believe that a boarding home is in violation of Iowa Code chapter 1350 or licensing or other regulatory requirements of the department of human services, department of inspections and appeals, or department of public health; or that dependent adult abuse of any individual living in the boarding home has occurred or is occurring.

“Responsible party” means the individual designated on the registration of a boarding home as the department’s primary contact.

“Room” means an apartment, group of rooms, or single room that is occupied as a separate living quarter or, if vacant, that is intended for occupancy as a separate living quarter, in which a tenant can live and sleep separately from any other persons in the building and that has direct access from the outside of the building or through a common hall.

“Supervision” means oversight necessary to prevent accidents or ensure the health, safety, and welfare of the tenant.

“Third degree of consanguinity” means the following relatives of the owner or lessee: spouse, children, parents, siblings or half-siblings, grandchildren, grandparents, uncles, aunts, nephews, nieces, great-grandparents, and great-grandchildren.

[ARC 8243B, IAB 10/21/09, effective 1/1/10; ARC 7034C, IAB 5/31/23, effective 7/5/23]

481—66.2(1350) Registration of boarding homes.

66.2(1) A boarding home shall complete and submit to the department the boarding home registration form located on the department’s website within 60 days of commencing operations.

66.2(2) The registration form may be submitted electronically via the department’s website; by mail to the Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by fax to (515)242-5022.

66.2(3) The registrant shall include, at a minimum, the following information on the statement of registration:

- a. Name(s) of the owner, lessee, and manager, as applicable;
- b. Number of rooms available for rent and maximum number of tenants for the entire boarding home;
- c. Location of the boarding home, including street address, city, and ZIP code;
- d. Contact information for the owner, lessee, and manager, including telephone number, mailing address, and email address;
- e. Occupant loads as calculated in accordance with the building and fire codes as adopted by the applicable jurisdictions;
- f. Whether the building is equipped with a fire sprinkler system;
- g. Whether the building is equipped with a centralized kitchen in which meals are prepared; and
- h. Name of the responsible party. The department will send all notices regarding the boarding home to the responsible party.

66.2(4) Failure to file a statement of registration in a timely manner may result in a penalty of no more than \$500.

66.2(5) The boarding home shall notify the department of any changes to the information on the initial statement of registration within 30 days of when the change occurs, including cessation of operation. Changes shall be submitted in the manner described in subrule 66.2(2).

[ARC 8243B, IAB 10/21/09, effective 1/1/10; ARC 7034C, IAB 5/31/23, effective 7/5/23]

481—66.3(1350) Occupancy reports.

66.3(1) Each boarding home shall update its boarding home registration form with the department annually between January 1 and January 31 in the same manner as provided in subrule 66.2(2).

66.3(2) The owner or lessee shall include, at a minimum, the following information on the occupancy report. If the owner or lessee is unable to answer the question because the owner or lessee does not have such information, the owner or lessee shall indicate such on the report.

- a. Current number of rooms occupied;
- b. Current number of tenants residing in the boarding home;
- c. If applicable, date of last fire inspection and any deficiencies noted and how such deficiencies have been corrected;
- d. If known, the number of tenants receiving Medicaid;
- e. If known, the number of tenants receiving food assistance benefits (EBT cards);
- f. If known, the number of tenants receiving other types of state assistance and the types of state assistance received;
- g. Types of services provided or arranged by the owner, lessee, manager or an affiliated person or entity; frequency of services by type; and the name and contact information of the person or entity providing or arranging such services;
- h. Any assistance or supervision provided to tenants by the owner, lessee or manager;
- i. Method of rent payments, such as cash, check, or state assistance; and
- j. If known, the number of tenants with a power of attorney, guardian or conservator.

[ARC 8243B, IAB 10/21/09, effective 1/1/10; ARC 7034C, IAB 5/31/23, effective 7/5/23]

481—66.4(1350) Complaints and investigations.

66.4(1) Complaints.

- a. The process for filing a complaint is as follows:

(1) Any person with a concern regarding the operation of a boarding home may file a complaint with the department in writing, by use of the complaint hotline at 1-877-686-0027 or through the department's website at dia.iowa.gov.

(2) When the nature of the complaint is outside the department's authority, the department shall forward the complaint to the appropriate investigatory entity.

(3) If other state agencies receive a complaint that relates to boarding homes, the agencies shall forward the complaint to the department.

b. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the boarding home or is without a reasonable basis. If the department, upon preliminary review, determines that the complaint is intended to harass or is without a reasonable basis, the department may dismiss the complaint.

66.4(2) Content of complaint reports. The complaint shall include as much of the following information as possible: the complainant's name, address and telephone number; the complainant's relationship to the boarding home

and tenant; and the reason for the complaint. The complainant's name and identifying information shall be confidential information and shall not be released by the department.

66.4(3) *Initiation of investigations and time frames for investigation of complaints.* Investigations may be initiated because of a complaint or other information received by the department. If the department determines there is probable cause to believe that a boarding home is an unregistered boarding home or that a registered boarding home is not in compliance with applicable law, an investigation shall be initiated. The department shall evaluate whether other local, state, or federal agencies, including law enforcement, should be provided a referral or included in the investigation. An investigation of the boarding home shall be initiated within 45 working days. If there is the likelihood of immediate danger, the department shall initiate an investigation of the boarding home within two working days of receipt of the complaint. If there is an allegation of harm, the department shall initiate an investigation of the boarding home within 20 working days of receipt of the complaint.

66.4(4) *Standard for determining whether a complaint is substantiated.* The department shall apply a preponderance of the evidence standard in determining whether a complaint is substantiated.

66.4(5) *Notification of the boarding home or alleged boarding home of results of investigation.* The department shall notify the boarding home or alleged boarding home, in writing, of the final report of the complaint investigation.

66.4(6) *Notification of the complainant of results of investigation.* The complainant, if known, shall be notified of the final findings of a complaint investigation. The complainant, if known, shall also be notified if the department determines not to investigate a complaint and shall receive an explanation of the department's decision.

[ARC 8243B, IAB 10/21/09, effective 1/1/10; ARC 7034C, IAB 5/31/23, effective 7/5/23]

481—66.5(83GA,SF484) Investigations. Rescinded ARC 7034C, IAB 5/31/23, effective 7/5/23.

481—66.6(135O) Penalties. The director shall consider the following when determining whether to assess a penalty for violation of Iowa Code chapter 135O or rules adopted thereunder, and when determining the amount of the penalty:

1. The duration of the noncompliance;
2. The nature of the noncompliance;
3. The response of the owner or lessee upon notification of noncompliance;
4. The number of tenants affected; and
5. The impact to the tenants.

[ARC 8243B, IAB 10/21/09, effective 1/1/10; ARC 7034C, IAB 5/31/23, effective 7/5/23]

481—66.7(135O) Public and confidential information.

66.7(1) *Public disclosure.* The following records are open and available for inspection:

- a. Registration forms and accompanying materials;
- b. Final findings of investigations, unless otherwise confidential by law, such as investigative findings of the division of criminal investigation of the department of public safety or dependent adult abuse investigations; and
- c. Official notices of penalties.

66.7(2) *Confidential information.* Confidential information includes the following:

- a. Information that does not comprise a final finding;
- b. Names and identifying information of all complainants;
- c. Names of tenants of a boarding home, identifying personal or medical information, copies of documentation appointing a legal representative, and the address of anyone other than an owner or lessee; and
- d. Social security or employer identification numbers (EIN).

66.7(3) *Redaction of confidential information.* If a record normally open for inspection contains confidential information, the confidential information shall be redacted prior to an agency's providing the record for inspection.

66.7(4) *Searchable database of all registered boarding homes.* The department shall maintain a searchable database of all registered boarding homes on the health facilities division's website at dia-hfd.iowa.gov.

[ARC 8243B, IAB 10/21/09, effective 1/1/10; ARC 7034C, IAB 5/31/23, effective 7/5/23]

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

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[Filed ARC 7034C (Notice ARC 6909C, IAB 2/22/23), IAB 5/31/23, effective 7/5/23]

CHAPTER 67
GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS, AND ADULT
DAY SERVICES

481—67.1(231B,231C,231D) Definitions. The following definitions apply to this chapter and to 481—Chapters 68, 69, and 70.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting, and ambulation.

“Ambulatory” or *“ambulation”* means physically and cognitively able to walk without aid of another person.

“Applicable requirements” means Iowa Code chapters 135C, 231B, 231C, 231D, 235B, 235E, and 562A, this chapter, and 481—Chapters 68, 69, and 70, as applicable, and includes any other applicable administrative rules and provisions of the Iowa Code.

“Assignment” means the distribution of work for which each staff member, regardless of certification or licensure status, is responsible during a given work period and includes a nurse directing an individual to do something the individual is already authorized to do.

“Assistance” means aid to a tenant who self-directs or participates in a task or activity or who retains the mental or physical ability, or both, to participate in a task or activity. Cueing of the tenant regarding a particular task or activity shall be construed to mean the tenant has participated in the task or activity.

“Blueprint” means copies of all completed drawings, schedules, and specifications that have been certified, sealed, and signed by an Iowa-licensed architect or Iowa-licensed engineer of record. The department may allow electronic transfer of blueprints pursuant to policy.

“Certified staff” means certified nursing assistants (CNAs) and certified medication assistants (CMAs) employed by the program.

“Dementia” means an illness characterized by multiple cognitive deficits which represent a decline from previous levels of functioning and includes memory impairment and one or more of the following cognitive disturbances: aphasia, apraxia, agnosia, and disturbance in executive functioning.

“Department” means the department of inspections and appeals.

“Director” means the director of the department of inspections and appeals.

“Direct supervision” means the provision of guidance and oversight of a delegated nursing task through the physical presence of the licensed nurse to observe and direct certified and noncertified staff.

“Elope” means that a tenant who has impaired decision-making ability leaves the program without the knowledge or authorization of staff.

“Global Deterioration Scale” or *“GDS”* means the seven-stage scale for assessment of primary degenerative dementia developed by Dr. Barry Reisberg.

“Health care professional” means a physician, physician assistant, registered nurse or advanced registered nurse practitioner licensed in Iowa by the respective licensing board.

“Health-related care” means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis. “Health-related care” includes nurse-delegated assistance.

“Human service professional” means an individual with a bachelor’s degree in a human service field including, but not limited to: human services, gerontology, social work, sociology, psychology, or family science. Two years of experience in a human service field may be substituted for up to two years of the required education. For example, an individual with an associate’s degree in a human service field and two years of experience in a human service field is a human service professional.

“Impaired decision-making ability” means a lack of capacity to make safe and prudent decisions regarding one’s own routine safety as determined by the program manager or nurse or means having a GDS score of five or above.

“Independent reviewer” means an attorney licensed in the state of Iowa who is not currently and has not been employed by the department in the past eight years, or has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.

“Indirect supervision” means the provision of guidance and oversight of a delegated nursing task through means other than direct supervision, including written and verbal communication.

“Instrumental activities of daily living” means those activities that reflect the tenant’s ability to perform household and other tasks necessary to meet the tenant’s needs within the community, which may include but are not limited to shopping, housekeeping, chores, and traveling within the community.

“Medication setup” means assistance with various steps of medication administration to support a tenant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original containers into suitable medication dispensing containers, reminder containers, or medication cups.

“Modification” means any addition to or change in physical dimensions or structure, except as incidental to the customary maintenance of the physical structure of the program’s facility.

“Monitoring” means an on-site evaluation of a program, a complaint investigation, or a program-reported incident investigation performed by the department to determine compliance with applicable requirements. A monitor who performs a monitoring for the department shall be a registered nurse, human service professional, or another person with program-related expertise.

“Noncertified staff” means unlicensed and uncertified personnel employed by the program.

“Nurse delegation” means the action of a registered nurse, advanced registered nurse practitioner, or licensed practical nurse to direct competent certified and noncertified staff to perform selected nursing tasks in selected situations. The decision of a nurse to delegate is based on the delegation process, including assessment, planning, implementation, supervision, and evaluation of the tenant, nursing tasks, personnel, and the situation. The nurse, as a licensed professional, retains accountability for the delegation process and the decision to delegate. Licensed practical nurses may delegate within the scope of their license with the supervision of a registered nurse.

“Occupancy agreement” or *“contractual agreement”* means a written contract entered into between a program and a tenant that clearly describes the rights and responsibilities of the program and the tenant and other information required by applicable requirements. An occupancy agreement may include a separate signed lease and signed service agreement.

“Part-time or intermittent care” means licensed nursing services and professional therapies that are provided in combination with nurse-delegated assistance with medications or activities of daily living and do not exceed 28 hours per week or, for adult day services, 4 hours per day.

“Personal care” means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, and grooming that are essential to the health and welfare of a tenant.

“Physician extender” means nurse practitioners, clinical nurse specialists, and physician assistants.

“Preponderance of the evidence” means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true.

“Program” means one or more of the following, as applicable: an elder group home as defined in Iowa Code section 231B.1 and 481—Chapter 68, an assisted living program as defined in Iowa Code section 231C.1 and 481—Chapter 69, or adult day services as defined in Iowa Code section 231D.1 and 481—Chapter 70.

“Program staff” means all employees of the program, regardless of certification or licensure status.

“Qualified professional” means a facility plant engineer familiar with the type of program being provided, or a licensed plumbing, heating, cooling, or electrical contractor who furnishes regular service to such equipment.

“Recognized accrediting entity” means a nationally recognized accrediting entity that the department recognizes as having specific program standards equivalent to the program standards established by the department.

“Regulatory insufficiency” means a violation of an applicable requirement.

“Remodeling” means a modification of any part of an existing building, an addition of a new wing or floor to an existing building, or a conversion of an existing building.

“Restraints” means any chemical or manual method which restricts freedom of movement or normal access to one’s body or any physical or mechanical device, material or equipment which is attached or adjacent to the tenant’s body that the tenant cannot remove easily and which restricts freedom of movement or normal access to one’s body.

“Routine” means more often than not or on a regular customary basis.

“Self-administration” means a tenant’s taking personal responsibility for all phases of medication except for any component assigned to the program under medication setup, and may include the tenant’s use of an automatic pill dispenser.

“Service plan” means the document that defines all services necessary to meet the needs and preferences of a tenant, whether or not the services are provided by the program or other service providers.

“Significant change” means a major decline or improvement in the tenant’s status which does not normally resolve itself without further interventions by staff or by implementing standard disease-related clinical interventions that have an impact on the tenant’s mental, physical, or functional health status.

“Substantial compliance” means a level of compliance with applicable requirements such that any identified regulatory insufficiency poses no greater risk to tenant health or safety than the potential for causing minimal harm.

“*Tenant*” means an individual who receives services through a program. In the context of adult day services, “tenant” means a participant as defined in 481—Chapter 70.

“*Tenant advocate*” means the office of long-term care resident’s advocate established in Iowa Code section 231.42.

“*Tenant’s legal representative*” means a person appointed by the court to act on behalf of a tenant or a person acting pursuant to a power of attorney. In the context of adult day services, “tenant’s legal representative” means a participant’s legal representative as defined in 481—Chapter 70.

“*Waiver*” means action taken by the department that suspends in whole or in part the requirements or provisions of a rule.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1994C, IAB 5/27/15, effective 7/1/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.2(231B,231C,231D) Program policies and procedures, including those for incident reports. A program’s policies and procedures must meet the minimum standards set by applicable requirements. All programs shall have policies and procedures related to the reporting of incidents including allegations of dependent adult abuse.

67.2(1) The program’s policies and procedures on incident reports, at a minimum, shall include the following:

- a. The program shall have available incident report forms for use by program staff.
- b. An incident report shall be in detail and shall be provided on an incident report form.
- c. The person in charge at the time of the incident shall prepare and sign the report.
- d. The incident report shall include statements from individuals, if any, who witnessed the incident.
- e. All accidents or unusual occurrences within the program’s building or on the premises that affect tenants shall be reported as incidents.

f. A copy of the completed incident report shall be kept on file on the program’s premises for a minimum of three years.

67.2(2) The program’s policies and procedures on allegations of dependent adult abuse shall be consistent with Iowa Code chapter 235E and rules adopted pursuant to that chapter and, at a minimum, shall include:

- a. Reporting requirements for staff and employees, and
- b. Requirements that the victim and alleged abuser be separated.

67.2(3) The program shall follow the policies and procedures established by the program.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—67.3(231B,231C,231D) Tenant rights. All tenants have the following rights:

67.3(1) To be treated with consideration, respect, and full recognition of personal dignity and autonomy.

67.3(2) To receive care, treatment and services which are adequate and appropriate.

67.3(3) To receive respect and privacy in the tenant’s medical care program. Personal and medical records shall be confidential, and the written consent of the tenant shall be obtained for the records’ release to any individual, including family members, except as needed in case of the tenant’s transfer to a health care facility or as required by law or a third-party payment contract.

67.3(4) To be free from mental and physical abuse.

67.3(5) To receive from the manager and staff of the program a reasonable response to all requests.

67.3(6) To associate and communicate privately and without restriction with persons and groups of the tenant’s choice, including the tenant advocate, on the tenant’s initiative or on the initiative of the persons or groups at any reasonable hour.

67.3(7) To manage the tenant’s own financial affairs unless a tenant’s legal representative has been appointed for the purpose of managing the tenant’s financial affairs.

67.3(8) To present grievances and recommend changes in program policies and services, personally or through other persons or in combination with others, to the program’s staff or person in charge without fear of reprisal, restraint, interference, coercion, or discrimination.

67.3(9) To be free from restraints.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.4(231B,231C,231D) Program notification to the department. The director or the director’s designee shall be notified within 24 hours, or the next business day, by the most expeditious means available:

67.4(1) Of any accident causing major injury. For the purposes of this rule, “major injury” shall also mean a substantial 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 tenant, and the tenant’s prognosis.

b. The following are not reportable accidents:

(1) An ambulatory tenant who falls when neither the program nor its employees have culpability related to the fall, even if the tenant sustains a major injury; or
(2) Spontaneous fractures; or
(3) Hairline fractures.

67.4(2) When damage to the program is caused by a natural or other disaster.

67.4(3) When there is an act that causes major injury to a tenant or when a program has knowledge of a pattern of acts committed by the same tenant on another tenant that results in any physical injury. For the purposes of this subrule, “pattern” means two or more times within a 30-day period.

67.4(4) When a tenant elopes from a program.

67.4(5) When a tenant attempts suicide, regardless of injury.

67.4(6) When a fire occurs in a program and the fire requires the notification of emergency services, requires full or partial evacuation of the program, or causes physical injury to a tenant.

67.4(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 chapters 235B and 235E, which require reporting of dependent adult abuse.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.5(231B,231C,231D) Medications.

67.5(1) If a program handles, stores, or administers controlled substances, the program shall be registered with the Iowa board of pharmacy as a care facility in accordance with 657—Chapter 10.

67.5(2) Each program shall follow its own written medication policy, which shall include the following:

a. The program shall not prohibit a tenant from self-administering medications.

b. A tenant shall self-administer medications unless:

(1) The tenant or the tenant’s legal representative delegates in the occupancy agreement or signed service plan any portion of medication setup to the program.

(2) The tenant delegates medication setup to someone other than the program.

(3) The program assumes partial control of medication setup at the direction of the tenant. The medication plan shall not be implemented by the program unless the program’s registered nurse deems it appropriate under applicable requirements, including those in Iowa Code section 231C.16A and subrule 67.9(4). The program’s registered nurse must agree to the medication plan.

c. A tenant shall keep medications in the tenant’s possession unless the tenant or the tenant’s legal representative, if applicable, delegates in the occupancy agreement or signed service plan partial or complete control of medications to the program. The service plan shall include the tenant’s choice related to storage.

d. When a tenant has delegated medication administration to the program, the program shall maintain a list of the tenant’s medications. If the tenant self-administers medications, the tenant may choose to maintain a list of medications in the tenant’s apartment or to disclose a current list of medications to the program for the purpose of emergency response. If the tenant discloses a medication list to the program in case of an emergency, the tenant remains responsible for the accuracy of the list.

e. When medication setup is delegated to the program by the tenant, staff via nurse delegation may transfer medications from the original prescription containers or unit dosing into medication reminder boxes or medication cups.

f. When medications are administered traditionally by the program:

(1) The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa, by an individual who has successfully completed a department-approved medication aide or medication manager course and passed the respective department-approved medication aide or manager examination, or by a physician assistant (PA) in accordance with 645—Chapter 327. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, advanced registered nurse practitioner, physician, pharmacist, or physician assistant (PA).

(2) Medications shall be kept in a locked place or container that is not accessible to persons other than employees responsible for the administration or storage of such medications.

(3) The program shall maintain a list of each tenant's medications and document the medications administered.

(4) Medications and treatments shall be administered as prescribed by the tenant's physician, advanced registered nurse practitioner or physician assistant.

g. Narcotics protocol, including destruction and reconciliation, shall be determined by the program's registered nurse.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 1050C, IAB 10/2/13, effective 11/6/13; ARC 2463C, IAB 3/16/16, effective 4/20/16; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—67.6(231B,231C,231D) Another business or activity located in a program.

67.6(1) A business or activity serving persons other than tenants of a program is allowed in a designated part of the physical structure in which the program is located if the other business or activity meets the requirements of applicable state and federal codes, administrative rules, and federal regulations.

67.6(2) A business or activity conducted in the designated part of the physical structure in which the program is located shall not interfere with the use of the program by tenants or with services provided to tenants or disturb tenants.

67.6(3) A business or activity conducted in the designated part of the physical structure in which the program is located shall not reduce access, space, services, or staff available to tenants or necessary to meet the needs of tenants.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.7(231B,231C,231D) Waiver of criteria for retention of a tenant in the program.

67.7(1) *Time-limited waiver.* Upon receipt of a program's request for waiver of the criteria for retention of a tenant, the department may grant a waiver of the criteria under applicable requirements for a time-limited basis. Absent extenuating circumstances, a waiver of the criteria for retention of a tenant is limited to a period of six months or less.

67.7(2) *Waiver petition procedures.* The following procedures shall be used to request and to receive approval of a waiver from criteria for the retention of a tenant:

a. A program shall submit the waiver request on a form and in a manner designated by the department as soon as it becomes apparent that a tenant exceeds retention criteria pursuant to an evaluation by a health care or human service professional.

b. The department shall respond in writing to a waiver request within 15 working days of receipt of all required documentation. In consultation with the program, the department may take an additional 15 working days to report its determination regarding the waiver request.

c. The program shall provide to the department within 5 working days written notification of any changes in the condition of the tenant as described in the approved waiver request.

67.7(3) *Factors for consideration for waiver of criteria for retention of a tenant.* In addition to the criteria established in Iowa Code subsection 17A.9A(2), the following factors may be demonstrative in determining whether the criteria for issuance of a waiver have been met.

a. It is the informed choice of the tenant or the tenant's legal representative, if applicable, to remain in the program;

b. The program is able to provide the staff necessary to meet the tenant's service needs in addition to the service needs of the other tenants;

c. The department shall only issue a waiver if the waiver will not jeopardize the health, safety, security or welfare of the tenant, program staff, or other tenants; and

d. The tenant has been diagnosed with a terminal illness and has been admitted to hospice, and the tenant exceeds the criteria for retention and admission for a temporary period of less than six months. A terminal diagnosis means the tenant is within six months of the end of life.

67.7(4) *Conditional waiver.* A conditional waiver may be granted contingent upon the department's receipt of additional information or performance of monitoring.

a. If a waiver has been in effect for six months, a monitoring shall be conducted to determine whether the tenant meets the criteria to continue on a waiver.

b. The department may seek additional information during the period to determine if a waiver should be granted.

67.7(5) *Appeals.* The denial of a waiver request may be appealed by the program pursuant to Iowa Code chapter 17A.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.8(231B,231C,231D) All other waiver requests. Waiver requests relating to topics other than retention of a tenant in a program shall be filed in accordance with 481—Chapter 6.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.9(231B,231C,231D) Staffing.

67.9(1) *Number of staff.* A sufficient number of trained staff shall be available at all times to fully meet tenants' identified needs.

67.9(2) *Emergency procedures.* All program staff shall be able to implement the accident, fire safety, and emergency procedures.

67.9(3) *Training documentation.* The program shall have training records and staffing schedules on file and shall maintain documentation of training received by program staff, including training of certified and noncertified staff on nurse-delegated procedures.

67.9(4) *Nurse delegation procedures.* The program's registered nurse shall ensure certified and noncertified staff are competent to meet the individual needs of tenants. Nurse delegation shall, at a minimum, include the following:

a. The program's newly hired registered nurse shall within 60 days of beginning employment as the program's registered nurse document a review to ensure that staff are sufficiently trained and competent in all tasks that are assigned or delegated.

b. Within 30 days of beginning employment, all program staff shall receive training by the program's registered nurse(s).

c. Training for noncertified staff shall include, at a minimum, the provision of activities of daily living and instrumental activities of daily living.

d. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants' health, cognitive or functional status.

e. The program's registered nurse(s) shall provide direct or indirect supervision of all certified and noncertified staff as necessary in the professional judgment of the program's registered nurse and in accordance with the needs of the tenants and certified and noncertified staff.

f. Services shall be provided to tenants in accordance with the training provided.

g. The program shall have in place a system by which certified or noncertified staff communicate in writing occurrences that differ from the tenant's normal health, functional and cognitive status. The program's registered nurse or designee shall train certified and noncertified staff on reporting to the program's registered nurse or designee and documenting occurrences that differ from the tenant's normal health, functional and cognitive status. The written communication required by this paragraph shall be retained by the program for a period of not less than three years, and shall be accessible to the department upon request.

h. In the absence of the program's registered nurse due to vacation or other temporary circumstances, the nurse assuming the duties of the program's registered nurse shall have access to staff training in relation to tenant needs.

67.9(5) *Prohibited services.* A program staff member shall not be designated as attorney-in-fact, guardian, conservator, or representative payee for a tenant unless the program staff member is related to the tenant by blood, marriage, or adoption.

67.9(6) *Dependent adult abuse training.* Program staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 0963C, IAB 8/21/13, effective 9/25/13; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.10(17A,231B,231C,231D) Monitoring.

67.10(1) *Frequency of monitoring.* The department shall monitor a certified program at least once during the program's certification period.

67.10(2) *Accessibility of records and program areas.* All records and areas of the program deemed necessary to determine compliance with the applicable requirements shall be accessible to the department for purposes of monitoring.

67.10(3) *Standard for determining whether a regulatory insufficiency exists.* The department shall use a preponderance-of-the-evidence standard when determining whether a regulatory insufficiency exists. A preponderance-of-the-evidence standard does not require that the monitor shall have personally witnessed the alleged violation.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.11(231B,231C,231D) Complaint and program-reported incident report investigation procedure.

67.11(1) *Complaints.* The process for filing a complaint is as follows:

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

b. When the nature of the complaint is outside the department's authority, the department shall forward the complaint or refer the complainant, if known, 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 program or tenant; and the reason for the complaint. The complainant's name shall be confidential information and shall not be released by the department. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the program. If the department, upon preliminary review, determines that the complaint is intended as harassment or is without reasonable basis, the department may dismiss the complaint.

67.11(2) *Program-reported incident reports.* When the program is required pursuant to applicable requirements to report an incident, the program shall make the report to the department via:

a. The web-based reporting tool accessible from the following Internet site, dia-hfd.iowa.gov/DIA_HFD/Home.do, under the "Complaints" tab;

b. Mail by sending the complaint to the Department of Inspections and Appeals, Complaints Unit, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083;

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

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

67.11(3) *Time frames for investigation of complaints or program-reported incident reports.* Upon receipt of a complaint or program-reported incident report made in accordance with this rule, the department shall conduct a preliminary review of the complaint or report to determine if a potential regulatory insufficiency has occurred. If a potential regulatory insufficiency exists, the department shall institute a monitoring of the program within the following time frames: within 2 working days of receipt of the complaint or incident report if there is the possibility of immediate danger, including that the potential regulatory insufficiency has caused or is likely to cause serious injury, harm, impairment, or death to a resident; or within 20 working days of receipt of the complaint or incident report if the potential regulatory insufficiency has caused or may cause harm that negatively impacts a tenant's mental, physical, or psychosocial status or function and is of such consequence to the tenant's well-being that a rapid response is warranted; or within 45 working days of receipt of the complaint or incident report for any other complaint or incident investigation, including a potential regulatory insufficiency that may have caused harm of limited consequence and does not significantly impair the tenant's mental, physical, or psychosocial status or function.

67.11(4) *Standard for determining whether a complaint is substantiated.* The department shall apply a preponderance-of-the-evidence standard in determining whether or not a complaint or program-reported incident report is substantiated.

67.11(5) *Notification of program and complainant.* The department shall notify the program and, if known, the complainant of the final report regarding the complaint investigation.

67.11(6) *Notification of accrediting entity.* In addition, for any credible report of alleged improper or inappropriate conduct or conditions within an accredited program, the department shall notify the accrediting entity by the most expeditious means possible of any actions taken by the department with respect to certification enforcement.

67.11(7) *Notification of complainant when complaint not investigated.* The department shall notify the complainant, if known, if the department does not investigate a complaint. The reasons for not investigating the complaint shall be included in the notification.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—67.12(17A,231B,231D) Adult day services and elder group homes—preliminary report, plan of correction and request for reconsideration. Rescinded ARC 1701C, IAB 10/29/14, effective 1/1/15.

481—67.13(17A,231B,231C,231D,85GA,HF2365) Exit interview, final report, plan of correction.

67.13(1) *Exit interview.* The department shall provide an exit interview in person or by telephone at the conclusion of a monitoring, during which the department shall inform the program's representative of all issues and areas of concern related to insufficient practices. A second exit interview shall be provided if the department identifies additional issues or areas of concern. The program shall have 2 working days from the date of the exit interview to submit additional or rebuttal information to the department.

67.13(2) *Final report.* The department shall issue the final report of a monitoring within 10 working days after completion of the on-site monitoring or the receipt by the department of additional or rebuttal information, by personal

service, electronically or by certified mail. The department shall issue a final report regarding a monitoring whether or not any regulatory insufficiency is found.

67.13(3) *Plan of correction.* Within 10 working days following receipt of the final report, the program shall submit a plan of correction to the department.

a. Contents of plan. The plan of correction shall include:

- (1) Elements detailing how the program will correct each regulatory insufficiency, including at the system level;
- (2) The date by which the regulatory insufficiency will be corrected;
- (3) What measures will be taken to ensure the problem does not recur;
- (4) How the program plans to monitor performance to ensure compliance; and
- (5) Any other required information.

The date by which the regulatory insufficiency will be corrected shall not exceed 30 days from receipt of the final report pursuant to subrule 67.13(2) without approval of the department.

b. Review of plan. The department shall review the plan of correction within 10 working days. The department may request additional information or suggest revisions to the plan.

67.13(4) *Monitoring revisit.* The department may conduct a monitoring revisit to ensure that the plan of correction has been implemented and the regulatory insufficiency has been corrected. The department may issue a regulatory insufficiency for failure to implement the plan of correction. A monitoring revisit by the department shall review the program prospectively from the date of the plan of correction to determine compliance.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1701C, IAB 10/29/14, effective 1/1/15; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—67.14(17A,231B,231C,231D,85GA,HF2365) Response to final report. Within 20 working days after the issuance of the final report and assessment of civil penalty, if any, the program shall respond in the following manner.

67.14(1) *If not contesting final report.* If the program does not desire to seek an informal conference or contest the final report and civil penalty, if assessed, the program shall remit to the department of inspections and appeals the amount of the civil penalty, if assessed. If a program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if the requirements of subrule 67.17(5) are met.

67.14(2) *If contesting the final report.* If the program desires to contest the final report and civil penalty, if assessed, the program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and shall do one of the following:

- a.* Request an informal conference with an independent reviewer pursuant to subrule 67.14(3); or
- b.* Request a contested case hearing in the manner provided by Iowa Code chapter 17A for contested cases.

67.14(3) *Informal conference.*

a. Request for informal conference. The request for an informal conference must be in writing and include the following:

- (1) Identification of the regulatory insufficiency(ies) being disputed;
- (2) The type of informal conference requested: face-to-face or telephone conference; and
- (3) A request for monitor's notes for the regulatory insufficiencies being disputed, if desired.

b. Submission of documentation. The program shall submit the following within 10 working days from the date of the program's written request for an informal conference:

- (1) The names of those who will be attending the informal conference, including legal counsel; and
- (2) Documentation supporting the program's position. The program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. "Good cause" means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

c. Face-to-face or telephone conference. A face-to-face or telephone conference, if requested, will be scheduled to occur within 10 working days of the receipt of the written request, all supporting documentation and the plan of correction required by subrule 67.13(3).

- (1) Failure to submit supporting documentation will not delay scheduling.
- (2) The conference will be scheduled for one hour. The program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the program's presentation. Due to the confidential nature of the conference, attendance may be limited.

(3) If additional information is requested by the independent reviewer during the informal conference, the program will have 2 working days to deliver the additional materials to the independent reviewer.

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the program may be given one opportunity to reschedule the face-to-face conference.

d. Results. The results of the informal conference will generally be sent within 10 working days after the date of the informal conference, or within 10 working days after the receipt of additional information, if requested.

(1) The independent reviewer may affirm or may modify or dismiss the regulatory insufficiency and civil penalty. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the regulatory insufficiency.

(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) final report if changes result from the informal conference.

(3) The program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

(4) If the informal conference results in dismissal of a regulatory insufficiency for which a civil penalty was assessed, the corresponding civil penalty will be rescinded.

67.14(4) *Procedure after informal conference.* After the conclusion of an informal conference:

a. If the program does not desire to further contest an affirmed or modified final report, the program shall, within 5 working days after receipt of the written decision of the independent reviewer, remit to the department of inspections and appeals the civil penalty, if assessed.

b. If the program does desire to further contest an affirmed or modified final report, the program shall, within 5 working days after receipt of the written decision of the independent reviewer, notify the department of inspections and appeals in writing that it desires to formally contest the final report.

67.14(5) *Contested case hearings.* Contested case hearings shall be conducted by the department's administrative hearings division pursuant to Iowa Code chapter 17A and 481—Chapter 9.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1701C, IAB 10/29/14, effective 1/1/15; ARC 2142C, IAB 9/16/15, effective 10/21/15; ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—67.15(17A,231B,231C,231D) Denial, suspension or revocation of a certificate.

67.15(1) *Notice and request for hearing.* The denial, suspension or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such actions. A denial, suspension or revocation shall be effective 30 days after certified mailing or personal service of the notice, unless the applicant or certificate holder gives the department written notice requesting a hearing within the 30-day period. If a timely request for hearing is made, the notice shall be deemed suspended pending the outcome of the hearing, unless subrule 67.15(3) or 67.15(4) applies. If an enforcement action has been implemented immediately in accordance with subrule 67.15(3) or 67.15(4), the enforcement action remains in effect regardless of a request for hearing.

67.15(2) *Hearings.* Hearings shall be conducted by the administrative hearings division of the department of inspections and appeals pursuant to Iowa Code chapter 17A and 481—Chapter 9.

67.15(3) *Immediate suspension of a certificate.* When the department finds that an imminent danger to the health or safety of tenants of a program exists which requires action on an emergency basis, the department may direct removal of all tenants from the program and suspend the certificate or require additional remedies to ensure the ongoing safety of the program's tenants prior to a hearing.

67.15(4) *Immediate imposition of enforcement action.* When the department finds that an imminent danger to the health or safety of tenants exists which requires action on an emergency basis, the department may immediately impose a conditional certificate and accompanying conditions upon the program in lieu of immediate suspension of the certificate and removal of the tenants from the program if the department finds that tenants' health and safety would still be protected. The program may request a hearing, but the immediate enforcement action remains in effect regardless of the request for hearing.

[ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—67.16(17A,231B,231C,231D) Conditional certification.

67.16(1) *Conditional certification.* In lieu of denial, suspension or revocation of a certificate, the department may issue a conditional certificate for a period of up to one year. Notwithstanding subrule 67.15(4), a conditional certificate shall be issued only when regulatory insufficiencies pose no greater risk to tenant health or safety than the potential for causing minimal harm.

a. The department shall specify the reasons for the conditional certificate in the notice issuing the conditional certificate.

b. The department may place conditions upon a certificate, such as requiring additional training; restriction of the program from accepting additional tenants for a period of time; or any other action or combination of actions deemed appropriate by the department.

c. Failure by the program to adhere to the plan of correction or conditions placed on the certificate may result in suspension or revocation of the conditional certification and may result in further enforcement action as available under applicable requirements.

d. A program must be in substantial compliance with applicable requirements before the removal of a conditional certificate by the department. Prior to lifting a conditional certificate, the department may conduct a monitoring to verify substantial compliance. Once the program is in substantial compliance with applicable requirements, the department shall lift the conditional certificate.

67.16(2) *Appeal of conditional certificate.* A written request for hearing must be received by the department within 30 days after the mailing or service of notice. The conditional certificate shall not be suspended pending the hearing. Hearings shall be conducted by the administrative hearings division of the department of inspections and appeals pursuant to Iowa Code chapter 17A and 481—Chapter 9.

[ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—67.17(17A,231B,231C,231D) Civil penalties.

67.17(1) *When civil penalties may be issued.* Civil penalties may be issued when the director finds that any of the following has occurred:

a. A program that does not comply with applicable requirements and the noncompliance results in imminent danger or a substantial probability of resultant death or physical harm to a tenant may be assessed a civil penalty of not more than \$10,000.

b. A program that continues to fail or refuses to comply with applicable requirements within prescribed time frames established by the department or approved by the department in the program's plan of correction and the noncompliance has a direct relationship to the health, safety, or security of tenants may be assessed a civil penalty of not more than \$5,000.

c. A program that prevents, interferes with or attempts to impede in any way any duly authorized representative of the department in the lawful enforcement of applicable requirements may be assessed a civil penalty of not more than \$1,000.

d. A program that discriminates or retaliates in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by Iowa Code chapter 231B, 231C or 231D and the corresponding administrative rules may be assessed a civil penalty of not more than \$5,000.

67.17(2) *Duplicate civil penalties prohibited.* The department shall not impose duplicate civil penalties on a program for the same set of facts and circumstances.

67.17(3) *Factors in determining the amount of a civil penalty.* The department shall consider the following factors when determining the amount of a civil penalty:

a. The frequency and length of time the regulatory insufficiency occurred (i.e., whether the regulatory insufficiency was an isolated or a widespread occurrence, practice, or condition);

b. The past history of the program as it relates to the nature of the regulatory insufficiency (the department shall not consider more than the current certification period and the immediately previous certification period);

c. The culpability of the program as it relates to the reasons the regulatory insufficiency occurred;

d. The extent of any harm to the tenants or the effect on the health, safety, or security of the tenants which resulted from the regulatory insufficiency;

e. The relationship of the regulatory insufficiency to any other types of regulatory insufficiencies which have occurred in the program;

f. The actions of the program after the occurrence of the regulatory insufficiency, including when corrective measures, if any, were implemented and whether the program notified the director as required;

g. The accuracy and extent of records kept by the program which relate to the regulatory insufficiency, and the availability of such records to the department;

h. The rights of tenants to make informed decisions;

i. Whether the program made a good-faith effort to address a high-risk tenant's specific needs and whether the evidence substantiates this effort.

67.17(4) *Civil penalties due.* The civil penalty shall be paid to the department within 30 days following the program's receipt of the final report and demand letter. The program may appeal in accordance with rule

481—67.14(17A,231C,85GA,SF394). If the program appeals, the civil penalty shall be deemed suspended until the appeal is resolved.

67.17(5) *Reduction of civil penalty amount by 35 percent.* If an assisted living program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if both of the following requirements are met:

- a. The program does not request a formal hearing pursuant to rule 481—67.14(17A,231C,85GA,SF394), or withdraws its request for formal hearing within 30 calendar days of the date that the civil penalty was assessed; and
- b. The civil penalty is paid and payment is received by the department within 30 calendar days of receipt of the final report.

[ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—67.18(17A,231B,231C,231D) Judicial review. Judicial review shall be conducted pursuant to Iowa Code chapter 17A and 481—Chapter 9.

[ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—67.19(135C,231B,231C,231D) Criminal, dependent adult abuse, and child abuse record checks.

67.19(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.

“*Comprehensive preliminary background check*” means a criminal history check of all states in which the applicant has worked or resided over the seven-year period immediately prior to submitting an application for employment that is conducted by an approved third-party vendor.

“*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 program for a very limited purpose, who are not in the program 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 program*” or “*employment within a program*” means all of the following, if the provider is regulated by the state or receives any federal or state funding:

1. An employee of an assisted living program certified under Iowa Code chapter 231C, if the employee provides direct services to consumers;
2. An employee of an elder group home certified under Iowa Code chapter 231B, if the employee provides direct services to consumers;
3. An employee of an adult day services program certified under Iowa Code chapter 231D, if the employee provides direct services to consumers.

“*Employee*” means any individual who is paid, either by the program 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 the person’s being prohibited from employment in a program.

“*Indirect services*” means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.

“*Program*,” 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. An assisted living program certified under Iowa Code chapter 231C;
2. An elder group home certified under Iowa Code chapter 231B; and
3. An adult day services program certified under Iowa Code chapter 231D.

67.19(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.

67.19(3) *Requirements for employer prior to employing an individual.* Prior to employment of a person in a program, the program shall complete the background check requirements set forth below.

- a. *Informing the prospective employee.* A program shall ask each person seeking employment by the program, “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?” The person shall also 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.

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

c. If a person considered for employment has been convicted of a crime. If a person being considered for employment in a program has been convicted of a crime under a law of any state, the program shall request that the department of human services perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the program.

d. If a person considered for employment has a record of founded child abuse or dependent adult abuse. If a person being considered for employment in a program has a record of founded child or dependent adult abuse under the law of any state, the program shall request that the department of human services perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the program.

e. Employment pending evaluation. The program may provisionally employ a person prior to completion of the required record check and evaluation by the department of human services, as applicable, subject to all of the following:

(1) The program shall have accessed SING to perform the required record check and be awaiting results from SING or awaiting evaluation by the department of human services, as applicable;

(2) If applicable, the program shall request an evaluation by the department of human services in accordance with paragraph 67.19(3) "c" or "d" within 30 days of receipt of the SING record check results;

(3) The program shall have utilized an approved third-party vendor to perform a comprehensive preliminary background check;

(4) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, the crime does not constitute a felony as defined in Iowa Code section 701.7 and is not a crime specified pursuant to Iowa Code chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712 or pursuant to Iowa Code section 726.3, 726.7, or 726.8;

(5) The comprehensive preliminary background check shall have determined that the person being considered for employment does not have a record of founded child abuse or dependent adult abuse, or, if the person being considered for employment does have a record of founded child abuse or dependent adult abuse, subrule 67.19(8) is applicable; and

(6) The provisional employment may continue until such time as the required record check through SING and evaluation by the department of human services, as applicable, are completed.

67.19(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 program.

67.19(5) Employment prohibition. Except as provided in paragraph 67.19(3) "e," a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a program unless an evaluation has been performed by the department of human services.

67.19(6) Transfer of an employee to another program owned or operated by the same person. If an employee transfers from one program to another program owned or operated by the same person, without a lapse in employment, the program is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

67.19(7) Transfer of ownership of a program. If the ownership of a program 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 program may continue to employ such employee pending the performance of the background check and any related evaluation.

67.19(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 certified program and is hired by another certified program 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 certified program 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 prior 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.

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.

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 67.19(8)"a" may be authorized.

67.19(9) *Employee notification of criminal convictions or founded abuse after employment.* If a person employed by an 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 seven calendar days 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 website, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3)"c" and "d."

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.

67.19(10) *Program receipt of credible information that an employee has been convicted of a crime or founded for abuse.* If the program receives credible information, as determined by the program, 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 67.19(9), the program shall take the following actions:

a. The program shall act to verify credible information within seven calendar days 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 website, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3)"c" and "d."

67.19(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.

This rule is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2020 Iowa Acts, Senate File 2299.

[ARC 0963C, IAB 8/21/13, effective 9/25/13; ARC 1547C, IAB 7/23/14, effective 8/27/14; ARC 5421C, IAB 2/10/21, effective 3/17/21]

481—67.20(17A,231C,231D) Emergency removal of tenants. If the department determines that the health or safety of tenants is in jeopardy and the tenants need to be removed from the program, the department shall use the following procedures to ensure a safe and orderly transfer.

67.20(1) The department shall notify the department of human services, the tenant advocate, the appropriate area agency on aging, and other agencies as necessary and appropriate:

- a. To alert them to the need to transfer tenants from a program;
- b. To request assistance in identifying alternative programs or other appropriate settings; and
- c. To contact the tenants and their legal representatives or family members, if applicable, and others as appropriate, including health care professionals.

67.20(2) The department shall notify the program of the immediate need to transfer tenants and of any assistance available, in coordination with the appropriate parties under subrule 67.20(1).

67.20(3) The department, in conjunction with other agencies as necessary and appropriate, shall proceed with the transfer of tenants.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.21(231C) Nursing assistant work credit.

67.21(1) A person who is certified as a nursing assistant, including a medication aide, and who is supervised by a registered nurse may submit information to the department to obtain credit toward maintaining certification for working in a program. A program may add an employee to the direct care worker registry by calling (515)281-4077 or by registering through the health facilities division website at dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Documents” tab.

67.21(2) A program shall complete and submit to the department a direct care worker registry application for each certified nursing assistant who works in the program. A registered nurse employed by the program shall supervise the nursing assistant. The application may be obtained by telephone at (515)281-4077 or via the health facilities division website at dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Documents” tab.

67.21(3) A program shall complete and submit to the department a direct care worker registry quarterly employment report whenever a change in the employment of a certified nursing assistant occurs. The report form may be obtained by telephone at (515)281-4077 or via the health facilities division website at dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Documents” tab.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.22(231B,231C,231D) Public or confidential information.

67.22(1) Public information.

a. *Public disclosure of findings.* The program shall post a notice stating that copies of the final report resulting from a monitoring are available via the department’s website at dia-hfd.iowa.gov/DIA_HFD/Home.do. The program shall post the notice in a prominent location on the premises of the program. Copies shall also be available upon request from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0083; telephone (515)281-6325.

b. *Open records.* The following records are open records available for inspection:

- (1) Certification applications, certification status, and accompanying materials;
- (2) Final findings of state monitorings, including a monitoring that results from a complaint or program-reported incident;
- (3) Reports from the state fire marshal;
- (4) Plans of correction submitted by a program;
- (5) Official notices of certification sanctions, including enforcement actions;
- (6) Findings of fact, conclusions of law, decisions and orders issued pursuant to rules 481—67.10(17A,231B,231C,231D) and 481—67.13(17A,231B, 231C,231D);
- (7) Waivers, including the department’s approval and denial letter and any letter requesting the waiver.

67.22(2) Confidential information. Confidential information includes the following:

- a. Information that does not comprise a final report resulting from a monitoring, complaint investigation, or program-reported incident investigation. Information which does not comprise a final report may be made public in a legal proceeding concerning a denial, suspension or revocation of certification;
- b. Names of all complainants;
- c. Names of tenants of a program, identifying medical information, copies of documentation appointing a legal representative, and the address of anyone other than an owner or operator; and
- d. Social security numbers or employer identification numbers (EIN).

67.22(3) *Redaction of confidential information.* If a record normally open for inspection contains confidential information, the confidential information shall be redacted before the records are provided for inspection.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—67.23(231B,231C,231D) **Training related to Alzheimer's disease and similar forms of irreversible dementia.** Rescinded ARC 1547C, IAB 7/23/14, effective 8/27/14.

These rules are intended to implement Iowa Code chapters 231B, 231C as amended by 2013 Iowa Acts, Senate File 394, and 231D.

[Filed ARC 8174B (Notice ARC 7877B, IAB 6/17/09), IAB 9/23/09, effective 1/1/10]

[Filed ARC 0961C (Notice ARC 0809C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 0963C (Notice ARC 0808C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]

[Filed ARC 1055C (Notice ARC 0941C, IAB 8/7/13), IAB 10/2/13, effective 1/1/14]

[Filed ARC 1547C (Notice ARC 1472C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]

[Filed ARC 1701C (Notice ARC 1616C, IAB 9/3/14), IAB 10/29/14, effective 1/1/15]

[Filed ARC 1994C (Notice ARC 1942C, IAB 4/1/15), IAB 5/27/15, effective 7/1/15]

[Filed ARC 2142C (Notice ARC 2067C, IAB 7/22/15), IAB 9/16/15, effective 10/21/15]

[Filed ARC 2463C (Notice ARC 2200C, IAB 10/14/15), IAB 3/16/16, effective 4/20/16]

[Filed ARC 3523C (Notice ARC 3407C, IAB 10/25/17), IAB 12/20/17, effective 1/24/18]

[Filed ARC 4976C (Notice ARC 4867C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]

[Filed ARC 5421C (Notice ARC 5335C, IAB 12/16/20), IAB 2/10/21, effective 3/17/21]

CHAPTER 68 ELDER GROUP HOMES

481—68.1(231B) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231B, the following definitions apply.

“Applicable requirements” means Iowa Code chapter 231B, this chapter and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“Change of ownership” means the purchase, transfer, assignment or lease of a certified elder group home and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

“Committee” means a resident advocate committee established by 321—Chapter 9.

“Elder” means a person 60 years of age or older.

“Elder group home” or *“EGH”* means a single-family residence that is operated by a person who is providing room, board, and personal care and may provide health-related services to three through five elders who are not related to the person providing the service within the third degree of consanguinity or affinity and that is staffed by an on-site manager 24 hours per day seven days per week.

“Household occupant” means a tenant and all others who reside in the EGH.

“In the proximate area” means located within a five minutes or less response time.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a tenant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in two or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring supervision by a registered nurse more than once a week of the tenant for more than 21 days.

For example, a tenant who has a condition such as congestive heart failure which results in two or more significant hospitalizations during a quarter and which requires that the tenant receive frequent supervision may be considered medically unstable.

“On-site manager” means the person on duty responsible for direct supervision or provision of tenant care. The on-site manager may be any household occupant over 18 years of age, except a tenant, who is qualified to perform the necessary duties.

“Personal care provider” means an individual who, in return for remuneration, assists with the essential activities of daily living which the tenant can perform personally only with difficulty.

“Program” means an elder group home.

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent tenant who lacks the ability to assist in bladder or bowel continence care.

“Unmanageable verbal abuse” means repeated verbalizations against tenants or staff that persist despite all interventions and that negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks.

“Usable floor space” means open floor space that is not under fixtures, furniture or other barriers and is available for walking or wheelchair use.

[ARC 8175B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—68.2(231B) Program certification and posting requirements.

68.2(1) Certification requirements. A program may obtain certification by meeting all applicable requirements. For the purpose of these rules, certification is equivalent to licensure.

68.2(2) Posting requirements. A program’s current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.3(231B) Certification—application process.

68.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail

from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

68.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

68.3(3) The appropriate fee as stated in Iowa Code section 231B.17 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

68.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.4(231B) Certification—application content. An application for certification or recertification of an EGH shall include the following:

68.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

68.4(2) A statement disclosing whether the individuals listed in subrule 68.4(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

68.4(3) A statement disclosing whether any of the individuals listed in subrule 68.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

68.4(4) The policy and procedure for evaluation of each tenant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each tenant shall be included.

68.4(5) The policy and procedure for service plans.

68.4(6) The policy and procedure for addressing medication needs of tenants.

68.4(7) The policy and procedure for accidents and emergency response.

68.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

68.4(9) The policy and procedure for transportation.

68.4(10) The policy and procedure for staffing and training.

68.4(11) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

68.4(12) The policy and procedure for managing risk and upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others.

68.4(13) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

68.4(14) The tenant occupancy agreement and all attachments.

68.4(15) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.

68.4(16) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.

68.4(17) The fee set forth in Iowa Code section 231B.17.

[ARC 8175B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—68.5(231B) Initial certification process.

68.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether or not the proposed program meets applicable requirements.

68.5(2) If, based upon the review of the complete application including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept tenants.

68.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.

68.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

68.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

68.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

68.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.6(231B) Expiration of program certification.

68.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.

68.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.7(231B) Recertification process. To obtain recertification, a program shall:

68.7(1) Submit one copy of the completed application, including the information required in rule 481—68.4(231B), associated documentation, and the recertification fee as listed in Iowa Code section 231B.17 to the department at the address stated in subrule 68.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

68.7(2) Submit additional documentation that each of the following has been inspected and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.8(231B) Notification of recertification.

68.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

68.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

68.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

68.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

68.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

68.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

68.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.9(231B) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the "Entities Book" tab.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.10(231B) Change of ownership—notification to the department.

68.10(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

68.10(2) In order to transfer certification, the applicant must:

a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231B and 481—Chapter 67 and this chapter; and

b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

68.10(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—68.11(231B) Cessation of program operation.

68.11(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. The program shall provide, at least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification to the department and the tenant advocate of the date on which the program will cease operation, which includes seeking decertification.

68.11(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department and the tenant advocate at least 90 days prior to expiration of the certification.

68.11(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly transfer or transition of all tenants within the 90-day period specified by subrule 68.11(2).

68.11(4) The department may conduct a monitoring during the 90-day period to ensure the safety of tenants during the transfer process or transition process.

68.11(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

68.11(6) When a program ceases operation, which includes seeking decertification, tenant advocates shall be allowed by the program to privately meet with tenants to provide education and service options.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.12(231B) Occupancy agreement.

68.12(1) The occupancy agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the tenant or the tenant's legal representative to understand.

68.12(2) In addition to the requirements of Iowa Code section 231B.5, the written occupancy agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

a. The telephone number for filing a complaint with the department.

b. The telephone number for the office of the tenant advocate.

c. The telephone number for reporting dependent adult abuse.

d. A copy of the program's statement on tenants' rights.

e. A statement that the program will notify the tenant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.

f. A copy of the program's admission and transfer criteria.

68.12(3) The occupancy agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

68.12(4) A copy of the occupancy agreement shall be provided to the tenant or the tenant's legal representative, if any, and a copy shall be kept by the program.

68.12(5) A copy of the most current occupancy agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the occupancy agreement is available to all persons upon request.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.13(231B) Evaluation of tenant.

68.13(1) *Evaluation prior to occupancy.* A program shall evaluate each prospective tenant's functional, cognitive and health status prior to the tenant's signing the occupancy agreement and becoming a household occupant to determine the tenant's eligibility for the program, including whether the services needed are available. The cognitive evaluation shall utilize a scored, objective tool. When the score from the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the tenant subsequently returns to the tenant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

68.13(2) *Evaluation within 30 days of occupancy and with significant change.* A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.14(231B) Criteria for admission and retention of tenants.

68.14(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a tenant who:

- a. Is bed-bound; or
- b. Requires routine, one-person assistance with standing, transfer or evacuation; or
- c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
 - (2) Displays behavior that places another tenant at risk; or
- d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
- e. Is under the age of 18; or
- f. Requires more than part-time or intermittent health-related care; or
- g. Has unmanageable incontinence on a routine basis despite an individualized toileting program; or
- h. Is medically unstable; or
- i. Requires maximal assistance with activities of daily living; or
- j. Is physically or mentally unable to immediately and without aid of another travel a normal path to safety, including the ascent and descent of stairs from the tenant's bedroom or bathroom.

68.14(2) *Disclosure of additional occupancy and transfer criteria.* A program may have additional occupancy or transfer criteria if the criteria are disclosed in the written occupancy agreement prior to the tenant's occupancy.

68.14(3) *Assistance with transfer from the program.* A program shall provide assistance to a tenant and the tenant's legal representative, if applicable, to ensure a safe and orderly transfer from the program when the tenant exceeds the program's criteria for admission and retention.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.15(231B) Involuntary transfer from the program.

68.15(1) *Program initiation of transfer.* If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant's legal representative contests the transfer, the following procedures shall apply:

- a. The program shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the tenant advocate.
- b. The program shall immediately provide to the tenant advocate, by certified mail, a copy of the notification and notify the tenant's treating physician, if any.
- c. Pursuant to statute, the tenant advocate shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeal process. The tenant or tenant's legal representative is not required to accept the assistance of the tenant advocate.
- d. If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

68.15(2) *Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department.* If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

a. Notification of the program. Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any tenant who exceeds admission and retention criteria.

b. Notification of others. Each identified tenant, the tenant's legal representative, if applicable, and other providers of services to the tenant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

c. Program agreement with the department's finding. If the program agrees with the department's finding and the program begins involuntary transfer proceedings, the program's internal appeal process in subrule 68.15(1) shall be utilized for appeals.

d. Program disagreement with the department's finding. If the program does not agree with the department's finding that the tenant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties. In the program's response, the program shall identify the tenant, list the known responses from others, and note the program's agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) Consideration of response. Within 10 working days of receipt of the program's response for each identified tenant, the department shall consider the response and make a final finding regarding the continued retention of a tenant.

(2) Amending the regulatory insufficiency. If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) Retaining regulatory insufficiency. If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision. In addition, the department shall provide to the tenant or the tenant's legal representative the contact information for the tenant advocate. A copy of the final report shall also be sent to the tenant advocate.

(4) Effect of the filing of an appeal. If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living in the EGH until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.

(5) Request for waiver of criteria for retention of a tenant in a program. To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.16(231B) Tenant documents.

68.16(1) Documentation for each tenant shall be maintained by the program and shall include:

a. An occupancy record including the tenant's name, birth date, and home address; identification numbers; date of beginning participation; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;

b. Application forms;

c. The initial evaluations and updates;

d. A nutritional assessment as necessary;

e. The initial individual service plan and updates;

f. Signed authorizations for permission to release medical information, photographs, or other media information as necessary;

g. A signed authorization for the tenant to receive emergency medical care as necessary;

h. A signed managed risk policy and signed managed risk consensus agreements, if any;

i. When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;

j. Medication lists, which shall be maintained in conformance with 481—paragraph 67.5(2) “d”;

k. Advance health care directives as applicable;

l. A complete copy of the tenant's occupancy agreement, including any updates;

m. A written acknowledgment that the tenant or the tenant's legal representative, if applicable, has been fully informed of the tenant's rights;

n. A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;

o. Incident reports involving the tenant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the tenant's medical record);

p. A copy of waivers of admission or retention criteria, if any;

q. When the tenant is unable to advocate on the tenant's own behalf or the tenant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and

r. Authorizations for the release of information, if any.

68.16(2) The program records relating to a tenant shall be retained for a minimum of three years after the transfer or death of the tenant.

68.16(3) All records shall be protected from loss, damage and unauthorized use.

[ARC 8175B, IAB 9/23/09, effective 1/1/10; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—68.17(231B) Service plans.

68.17(1) A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 68.13(1) and 68.13(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

68.17(2) Prior to the tenant's signing the occupancy agreement and becoming a household occupant, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the tenant and, at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. All persons who develop the plan and the tenant or the tenant's legal representative shall sign the plan.

68.17(3) When a tenant needs personal care or health-related care, the service plan shall be updated within 30 days of the tenant's occupancy and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

68.17(4) The service plan shall be individualized and shall indicate, at a minimum:

a. The tenant's identified needs and preferences for assistance;

b. Any services and care to be provided pursuant to the occupancy agreement;

c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy; and

d. Preferences, if any, of the tenant or the tenant's legal representative for nursing facility care, if the need for nursing facility care presents itself during the elder group home occupancy.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.18(231B) Nurse review. If a tenant does not receive personal or health-related care, but an observed significant change in the tenant's condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation:

68.18(1) To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make

appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

68.18(2) To ensure that health care professionals' orders are current for tenants who receive health care professional-directed care from the program; and

68.18(3) To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant's health status; and

68.18(4) To provide the program with written documentation of the activities under the service plan, as set forth in rule 481—68.17(231B), showing the time, date and signature.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.19(231B) Staffing. In addition to the general staffing requirements in rule 481—67.9 (231B,231C,231D), the following requirements apply to staffing in programs.

68.19(1) The program shall be staffed by an on-site manager 24 hours per day, seven days per week.

68.19(2) Personal care providers shall have completed, at minimum, a home care aide training program that meets the requirements and criteria established in 641—Chapter 80.

68.19(3) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

68.19(4) Personal care providers and nursing staff may be employed by the program or obtained through a contract with a home health agency or other service provider. Regardless of the source, the staff must meet all applicable requirements.

68.19(5) The program shall notify the department in writing within ten business days of a change in the program's manager.

[ARC 8175B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—68.20(231B) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the tenant along with the occupancy agreement. The managed risk policy shall include the following:

68.20(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the tenant and the process for managing risk and for upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others; and

68.20(2) A consensus-based process to address specific risk situations. Program staff and the tenant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the tenant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the tenant's file.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.21(231B) Transportation. When transportation services are provided directly or under contract with the program:

68.21(1) The vehicle shall be accessible and appropriate to the tenants who use it, with consideration for any physical disabilities and impairments.

68.21(2) Every tenant transported shall have a seat in the vehicle, except for a tenant who remains in a wheelchair during transport.

68.21(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

68.21(4) Wheelchairs shall be secured when the vehicle is in motion.

68.21(5) During loading and unloading of a tenant, the driver shall be in the proximate area of the tenants in a vehicle.

68.21(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.22(231B) Identification of veteran's benefit eligibility.

68.22(1) Within 30 days of a tenant's participation in an elder group home that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the tenant or the tenant's personal representative whether the tenant is a veteran or whether the tenant is the spouse, widow, or dependent of a veteran and shall document the response.

68.22(2) If the program determines that the tenant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the tenant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

68.22(3) If a tenant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.23(231B) Resident advocate committees. Resident advocate committees for EGHs shall be governed by 321—Chapter 9 unless otherwise required in this chapter.

68.23(1) Committee placement. A resident advocate committee shall be established by the commission on aging for each program certified in accordance with this chapter.

68.23(2) Committee visitations. The committee shall visit the program assigned to it within one month of the admission of the first tenant as well as a minimum of once and maximum of four times annually thereafter.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.24(231B) Life safety—emergency policies and procedures and structural safety requirements.

68.24(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

- a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;
- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Procedures for fire drills;
- g. Regulations regarding smoking;
- h. Monitoring and testing of smoke-control systems;
- i. Tenant evacuation procedures; and
- j. Procedures for reporting and documentation.

68.24(2) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for elder group homes in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

68.24(3) The program shall have the means to control the maximum temperature of water at sources accessible by a tenant to prevent scalding and shall control the maximum water temperature for tenants with cognitive impairment or dementia or at a tenant's request.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.25(231B) Structural standards.

68.25(1) The EGH shall be safe, sanitary, well-ventilated, and properly lighted, heated, and cooled; and shall comply with all applicable state and local housing ordinances for family residences and with fire safety rules promulgated by the state fire marshal.

68.25(2) In addition to meeting the requirements in subrule 68.25(1), the EGH shall meet the following standards:

a. *General.*

- (1) The home, furnishings and fixtures shall be clean, in good repair and appropriate for the tenants.
- (2) Stairways shall have handrails of a circumference, length, texture, strength and stability that can reasonably be expected to provide tenant support.
- (3) A functioning light shall be provided in each room, stairway and exit; all light bulbs shall be protected from breakage or removal with appropriate covers.

(4) The yard, fire exits and exterior steps shall be kept free of obstructions and shall be accessible and appropriate to the condition of the tenants.

(5) There shall be at least 150 square feet of common living space and sufficient furniture in the home to accommodate the recreational and socialization needs of all the tenants at one time; common space shall not be located in the basement or garage, unless such space was constructed for that purpose. Additional common living space may be required if wheelchairs, walkers or other durable medical equipment is to be accommodated. For an EGH constructed or remodeled after July 1, 2005, there shall be 300 square feet of usable floor space.

(6) Interior and exterior doorways used by tenants shall be wide enough to accommodate wheelchairs and walkers if tenants with impaired mobility are in residence.

(7) Hot and cold water at each tub, shower, and sink shall be in sufficient supply to meet the needs of the tenants and staff.

(8) Grab bars shall be present for each toilet, tub and shower. Access to toilet and bathing facilities shall be barrier-free. Toilet and bathing facilities shall provide individual privacy.

(9) A telephone shall be available and accessible for tenants' use in a manner that allows for privacy for all calls.

b. Safety.

(1) All combustion appliances shall be used and maintained properly and shall be inspected annually by a qualified technician for carbon monoxide emissions and any other hazards to health and safety;

(2) Extension cord wiring shall not be used in place of permanent electrical fixtures or outlets.

c. Sanitation requirements.

(1) A public water supply shall be utilized if available. If a nonmunicipal water source is used, the owner or on-site manager must show documentation from the state laboratory that the water supply is potable and is tested as required by the rules of the environmental protection commission of the department of natural resources.

(2) Septic tanks or other nonmunicipal wastewater disposal systems shall be in good working order and shall comply with state and local regulations for wastewater treatment.

(3) Garbage and refuse shall be suitably stored and disposed of by a sanitation company providing service in the area.

(4) If laundry service is provided, soiled linens and clothing shall be stored in containers in an area separate from food storage, kitchen and dining areas.

(5) Sanitation for household pets and other domestic animals shall be adequate to prevent health and safety hazards.

(6) There shall be adequate control of insects and rodents.

(7) Reasonable and prudent precautions for infection control shall be taken, including washing hands and exposed portions of arms with soap and hot water immediately before engaging in food preparation and meal service and before and after providing personal care.

(8) There shall be at least one toilet and one sink for every four household occupants. A minimum of one sink and toilet is required on each floor occupied by tenants. A sink shall be located near each toilet. For an EGH constructed or remodeled after July 1, 2005, there shall be at least one toilet and one sink for every two household occupants, with a minimum of one toilet and one sink on each floor occupied by tenants.

(9) At least one tub or shower is required for each six household occupants. For an EGH constructed or remodeled after July 1, 2005, there shall be at least one tub or one shower for every four household occupants.

d. Bedroom requirements.

(1) Each tenant bedroom shall:

1. Have a door that opens directly to a hallway or common use area without passage through another bedroom or common bathroom;

2. Be adequately ventilated, heated, cooled and lighted;

3. Have at least 70 square feet of usable floor space, excluding any area where a sloped ceiling does not allow a person to stand upright. For an EGH constructed or remodeled after July 1, 2005, each tenant bedroom shall have at least 100 square feet of usable floor space;

4. Provide individual privacy and be occupied by one tenant, unless an alternative arrangement is agreed to in the occupancy agreement by the tenant or the tenant's legal representative;

5. Be on ground level for tenants with impaired mobility;

6. Be in sufficiently close proximity to the on-site manager to ensure that tenants are able to alert the on-site manager to nighttime needs or emergencies, or be equipped with a call system.

(2) Owners, operators, on-site managers, their family members, and personal care providers shall not use as bedrooms areas that are designated as living areas or as tenant bedrooms;

(3) Common living space and tenant bedrooms shall not be used for storage areas.

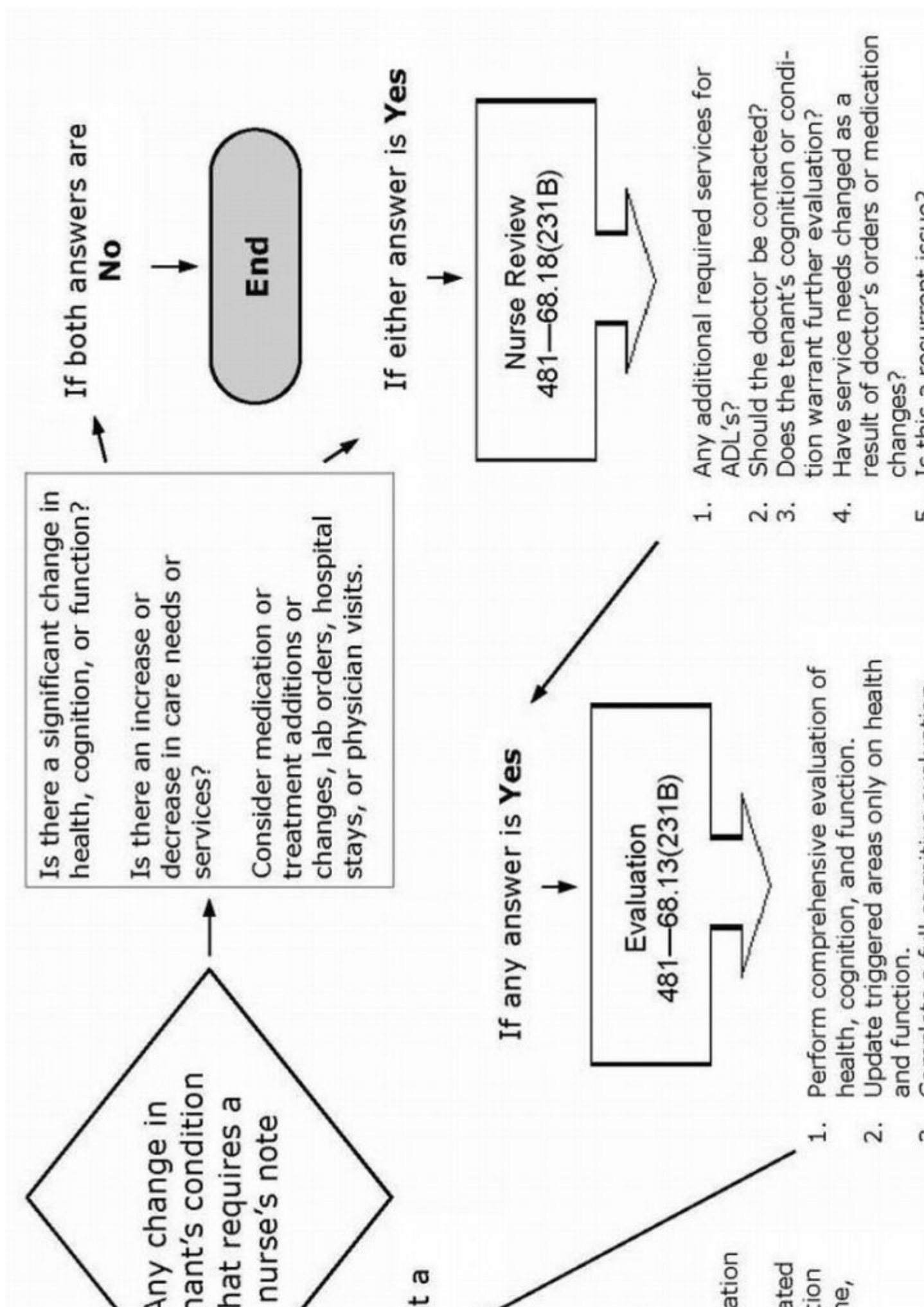
[ARC 8175B, IAB 9/23/09, effective 1/1/10]

481—68.26(231B) Landlord and tenant Act. Iowa Code chapter 562A, the uniform residential landlord and tenant Act, shall apply to all EGHs under this chapter.

[ARC 8175B, IAB 9/23/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 231B.

Table A



[Filed ARC 8175B (Notice ARC 7960B, IAB 7/15/09), IAB 9/23/09, effective 1/1/10]
[Filed ARC 1927C (Notice ARC 1860C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]
[Filed ARC 4976C (Notice ARC 4867C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]

CHAPTER 69 ASSISTED LIVING PROGRAMS

481—69.1(231C) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231C, the following definitions apply.

“Accredited” means that the program has received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Applicable requirements” means Iowa Code chapter 231C, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“Assisted living” or *“program”* means provision of housing with services, which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living, to three or more tenants in a physical structure which provides a homelike environment. “Assisted living” also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. “Assisted living” includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included. “Assisted living” includes 24 hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

“CARF” means the Commission on Accreditation of Rehabilitation Facilities.

“Change of ownership” means the purchase, transfer, assignment or lease of a certified assisted living program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

“Cognitive disorder” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet the criteria for dementia, delirium, or amnesic disorder.

“Dementia-specific assisted living program” means an assisted living program certified under this chapter that:

1. Serves fewer than 55 tenants and has 5 or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“Dwelling unit” means a single unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping and sanitation, and which may include permanent provisions for eating and cooking. “Sanitation” for purposes of this definition means bathroom fixtures as required by this chapter.

“In the proximate area” means located within a five minutes or less response time.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a tenant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the tenant for more than 21 days by a registered nurse.

For example, a tenant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the tenant receive frequent supervision may be considered medically unstable.

“Nonaccredited” means that the program has been certified under the provisions of this chapter but has not received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent tenant who lacks the ability to assist in bladder or bowel continence care.

“Unmanageable verbal abuse” means repeated verbalizations against tenants or staff that persist despite all interventions and that negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.2(231C) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

69.2(1) Posting requirements. A program's current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

69.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—69.30(231C), subrules 69.29(2) and 69.29(4), paragraph 69.35(1) "d," and subrules 69.32(2) and 69.32(3), which include the requirements relating to door alarms and specialized locking systems, within 90 days of receiving the final report from the second sequential certification monitoring.

69.2(3) Dementia-specific program by definition. If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings based on the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale, the program shall be deemed a dementia-specific program by definition. If the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale goes below that which is required by the definition of dementia-specific program at any time after the program has been deemed dementia-specific by definition and the program is not holding itself out as providing dementia care in a specialized setting, the program will no longer be considered dementia-specific.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—69.3(231C) Certification of a nonaccredited program—application process.

69.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division website at dia-hfd.iowa.gov; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

69.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

69.3(3) The appropriate fee as stated in Iowa Code section 231C.18 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

69.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.4(231C) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

69.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

69.4(2) A statement disclosing whether the individuals listed in subrule 69.4(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

69.4(3) A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

69.4(4) The policy and procedure for evaluation of each tenant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each tenant shall be included.

- 69.4(5) The policy and procedure for service plans.
- 69.4(6) The policy and procedure for addressing medication needs of tenants.
- 69.4(7) The policy and procedure for accidents and emergency response, including provisions related to head injuries.
- 69.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.
- 69.4(9) The policy and procedure for activities.
- 69.4(10) The policy and procedure for transportation.
- 69.4(11) The policy and procedure for staffing and training.
- 69.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.
- 69.4(13) The policy and procedure for managing risk and upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others.
- 69.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).
- 69.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 69.32(2).
- 69.4(16) The tenant occupancy agreement and all attachments.
- 69.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.
- 69.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.
- 69.4(19) The fee set forth in Iowa Code section 231C.18.
- 69.4(20) The policy and procedure for addressing sexual relationships between tenants and staff, and between tenants with dementia greater than Stage 5 on the Global Deterioration Scale.
- 69.4(21) The policy and procedure for extraordinary lifesaving measures, such as cardiopulmonary resuscitation (CPR).
- 69.4(22) The program shall follow the policies and procedures established.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15; ARC 2463C, IAB 3/16/16, effective 4/20/16; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—69.5(231C) Initial certification process for a nonaccredited program.

- 69.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether or not the proposed program meets applicable requirements.
- 69.5(2) If, based upon the review of the complete application including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept tenants.
- 69.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.
- 69.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.
- 69.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.
- 69.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.
- 69.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.6(231C) Expiration of the certification of a nonaccredited program.

- 69.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.
- 69.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.7(231C) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

69.7(1) Submit one copy of the completed application, including the information required in rule 481—69.4(231C), associated documentation, and the recertification fee as listed in Iowa Code section 231C.18 to the department at the address stated in subrule 69.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

69.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.8(231C) Notification of recertification for a nonaccredited program.

69.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

69.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

69.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

69.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

69.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

69.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.9(231C) Certification or recertification of an accredited program—application process.

69.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division website at dia-hfd.iowa.gov; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with life safety requirements pursuant to this chapter.

d. Maintain compliance with the state fire marshal division's requirements.

e. Submit the appropriate fees as set forth in Iowa Code section 231C.18.

69.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.10(231C) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

69.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

69.10(2) A statement disclosing whether the individuals listed in subrule 69.10(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

69.10(3) A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1, or licensed hospital as defined under Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

69.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—69.11(231C) Initial certification process for an accredited program.

69.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether or not the accredited program meets applicable requirements and whether or not certification will be issued.

69.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

69.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.12(231C) Recertification process for an accredited program.

69.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

69.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231C.18 to the department at the address stated in subrule 69.9(1) at least 90 calendar days prior to the expiration of the program's certification.

69.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements and make a recertification decision.

69.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.13(231C) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at dia-hfd.iowa.gov under the "Entities Book" tab.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.14(231C) Recognized accrediting entity.

69.14(1) The department designates CARF as a recognized accrediting entity for programs.

69.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

69.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

69.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.15(231C) Requirements for an accredited program. Each accredited program that is certified by the department shall:

69.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

69.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

69.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program's accreditation.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.16(231C) Maintenance of program accreditation.

69.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

a. The program complies with the requirements outlined in rule 481—69.15(231C).

b. The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

69.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

69.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.17(231C) Change of ownership—notification to the department.

69.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

69.17(2) In order to transfer certification, the applicant must:

a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231C and 481—Chapter 67 and this chapter; and

b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

69.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—69.18(231C) Plan reviews of a building for a new program.

69.18(1) Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.18(2) A program applicant shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.18(4) The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

69.18(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet the state fire marshal division's requirements, construction or remodeling of the building may commence.

69.18(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.19(231C) Plan review prior to the remodeling of a building for a certified program.

69.19(1) Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—69.35(231C). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.19(2) A certified program shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.19(4) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

69.19(5) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.20(231C) Cessation of program operation.

69.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. At least 90 days in advance of cessation or decertification, the program shall provide to the department and the office of long-term care ombudsman written notification of the date on which the program will cease operation or decertify.

69.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department and the office of long-term care ombudsman at least 90 days prior to expiration of the certification.

69.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly transfer or transition of all tenants within the 90-day period specified by subrule 69.20(2).

69.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of tenants during the transfer process or transition process.

69.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

69.20(6) When a program ceases operation, which includes seeking decertification, representatives from the office of long-term care ombudsman shall be allowed by the program to privately meet with tenants to provide education and service options.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.21(231C) Occupancy agreement.

69.21(1) The occupancy agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the tenant or the tenant's legal representative to understand.

69.21(2) In addition to the requirements of Iowa Code section 231C.5, the written occupancy agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

- a. The telephone number for filing a complaint with the department.
- b. The telephone number for the office of long-term care ombudsman.

- c. The telephone number for reporting dependent adult abuse.
- d. A copy of the program's statement on tenants' rights.
- e. A statement that the tenant landlord law applies to assisted living programs.
- f. A statement that the program will notify the tenant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.

69.21(3) The occupancy agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

69.21(4) A copy of the occupancy agreement shall be provided to the tenant or the tenant's legal representative, if any, and a copy shall be kept by the program.

69.21(5) A copy of the most current occupancy agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the occupancy agreement is available to all persons upon request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.22(231C) Evaluation of tenant.

69.22(1) *Evaluation prior to occupancy.* A program shall evaluate each prospective tenant's functional, cognitive and health status prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit in order to determine the tenant's eligibility for the program, including whether the services needed are available. The cognitive evaluation shall utilize a scored, objective tool. When the score from the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale (GDS) shall be used at all subsequent intervals, if applicable. If the tenant subsequently returns to the tenant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or a human service professional.

69.22(2) *Evaluation within 30 days of occupancy.* A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. The evaluation shall be conducted by a health care professional, a human service professional, or a licensed practical nurse via nurse delegation when the tenant has not exhibited a significant change.

69.22(3) *Evaluation annually and with significant change.* A program shall evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional, a human service professional, or a licensed practical nurse via nurse delegation when the tenant has not exhibited a significant change. A licensed practical nurse shall not complete the evaluation when the tenant has exhibited a significant change.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 4976C, IAB 3/11/20, effective 4/15/20; ARC 6054C, IAB 11/17/21, effective 12/22/21]

481—69.23(231C) Criteria for admission and retention of tenants.

69.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a tenant who:

- a. Is bed-bound; or
- b. Requires routine, two-person assistance with standing, transfer or evacuation; or
- c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
 - (2) Displays behavior that places another tenant at risk; or
- d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
- e. Is under the age of 18; or
- f. Requires more than part-time or intermittent health-related care; or
- g. Has unmanageable incontinence on a routine basis despite an individualized toileting program; or
- h. Is medically unstable; or
- i. Requires maximal assistance with activities of daily living; or
- j. Despite intervention, chronically urinates or defecates in places that are not considered acceptable according to societal norms, such as on the floor or in a potted plant.

69.23(2) *Disclosure of additional occupancy and transfer criteria.* A program may have additional occupancy or transfer criteria if the criteria are disclosed in the written occupancy agreement prior to the tenant's occupancy.

69.23(3) Assistance with transfer from the program. A program shall provide assistance to a tenant and the tenant's legal representative, if applicable, to ensure a safe and orderly transfer from the program when the tenant exceeds the program's criteria for admission and retention.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.24(231C) Involuntary transfer from the program.

69.24(1) Program initiation of transfer. If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant's legal representative contests the transfer, the following procedures shall apply:

a. The program shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the office of long-term care ombudsman.

b. The program shall immediately provide to the office of long-term care ombudsman, by certified mail, a copy of the notification and notify the tenant's treating physician, if any.

c. Pursuant to statute, the office of long-term care ombudsman shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeal process. The tenant or tenant's legal representative is not required to accept the assistance of the office of long-term care ombudsman.

d. If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

69.24(2) Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department. If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

a. *Program agreement with the department's finding.* If the program agrees with the department's finding and the program begins involuntary transfer proceedings, the program's internal appeal process in subrule 69.24(1) shall be utilized for appeals.

b. *Program disagreement with the department's finding.* If the program does not agree with the department's finding that the tenant exceeds admission and retention criteria, the program may appeal the department's final report as provided in rule 481—67.14(17A,231B,231C,231D,85GA,HF2365). If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.

c. *Request for waiver of criteria for retention of a tenant in a program.* To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.25(231C) Tenant documents.

69.25(1) Documentation for each tenant shall be maintained by the program and shall include:

a. An occupancy record including the tenant's name, birth date, and home address; identification numbers; date of occupancy; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;

b. Application forms;

c. The initial evaluations and updates;

d. A nutritional assessment as necessary;

e. The initial individual service plan and updates;

f. Signed authorizations for permission to release medical information, photographs, or other media information as necessary;

g. A signed authorization for the tenant to receive emergency medical care as necessary;

h. A signed managed risk policy and signed managed risk consensus agreements, if any;

i. When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;

j. Medication lists, which shall be maintained in conformance with 481—paragraph 67.5(2)“d”;

- k.* Advance health care directives as applicable;
- l.* A complete copy of the tenant's occupancy agreement, including any updates;
- m.* A written acknowledgment that the tenant or the tenant's legal representative, if applicable, has been fully informed of the tenant's rights;
- n.* A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;
- o.* Incident reports involving the tenant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the tenant's medical record);
- p.* A copy of waivers of admission or retention criteria, if any;
- q.* When the tenant is unable to advocate on the tenant's own behalf or the tenant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and
- r.* Authorizations for the release of information, if any.

69.25(2) The program records relating to a tenant shall be retained for a minimum of three years after the transfer or death of the tenant.

69.25(3) All records shall be protected from loss, damage and unauthorized use.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—69.26(231C) Service plans.

69.26(1) A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

69.26(2) Prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the tenant and, at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. All persons who develop the plan and the tenant or the tenant's legal representative shall sign the plan.

69.26(3) When a tenant needs personal care or health-related care, the service plan shall be updated within 30 days of the tenant's occupancy and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

d. The service plan updated within 30 days of the tenant's occupancy shall be signed and dated by all parties.

e. The service plan shall be reviewed, updated if necessary, and signed and dated by all parties at least annually.

69.26(4) The service plan shall be individualized and shall indicate, at a minimum:

a. The tenant's identified needs and preferences for assistance;

b. Any services and care to be provided pursuant to the occupancy agreement;

c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy;

d. For tenants who are unable to plan their own activities, including tenants with dementia, a list of person-centered planned and spontaneous activities based on the tenant's abilities and personal interests; and

e. Preferences, if any, of the tenant or the tenant's legal representative for nursing facility care, if the need for nursing facility care presents itself during the assisted living program occupancy.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—69.27(231C) Nurse review.

69.27(1) If a tenant does not receive personal or health-related care, but an observed significant change in the tenant's condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse:

a. To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

b. To ensure that health care professionals' orders are current for tenants who receive health care professional-directed care from the program; and

c. To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant's health status; and

d. To provide the program with written documentation of the nurse review, showing the time, date and signature.

69.27(2) A licensed practical nurse via nurse delegation may complete the tasks required by this rule, except when a tenant experiences a significant change in condition.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.28(231C) Food service.

69.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals.

69.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

69.28(3) Menus shall be planned to provide the following percentage 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 based on the number of meals provided by the program:

a. A minimum of 33½ percent if the program provides one meal per day;

b. A minimum of 66½ percent if the program provides two meals per day; and

c. One hundred percent if the program provides three meals per day.

69.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

69.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.

a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:

(1) Obtaining certification as a dietary manager; or

(2) Obtaining certification as a food protection professional; or

(3) Successfully completing an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another program may be substituted if the program's curriculum includes substantially similar competencies to a program that meets the requirements of the Food Code and the provider of the program files with the department a statement indicating that the program provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph "a," the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to tenants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with tenants may be stored in the program's kitchen. Tenant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of tenant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for tenant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Tenants may take food items left over from a meal back to their apartments. The program may not store leftovers in the program's kitchen.

f. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

69.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

69.28(8) All perishable or potentially hazardous food shall be cooked to recommended temperatures and held at safe temperatures of 41°F (5°C) or below, or 135°F (57°C) or above.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14; ARC 2463C, IAB 3/16/16, effective 4/20/16; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—69.29(231C) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

69.29(1) Each tenant shall have access to a 24-hour personal emergency response system that automatically identifies the tenant in distress and can be activated with one touch.

69.29(2) In lieu of providing access to a personal emergency response system, a program serving one or more tenants with cognitive disorder or dementia shall follow a system, program, or written staff procedures that address how the program will respond to the emergency needs of the tenant(s).

69.29(3) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

69.29(4) A dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be awake and on duty 24 hours a day on site and in the proximate area. The staff shall check on tenants as indicated in the tenants' service plans.

A non-dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be able to respond to a call light or other emergent tenant needs and be in the proximate area 24 hours a day on site. The staff shall check on tenants as indicated in the tenants' service plans.

69.29(5) All programs employing a new program manager after January 1, 2010, shall require the manager within six months of hire to complete an assisted living management class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living programs. Managers who have completed a similar training prior to January 1, 2010, shall not be required to complete additional training to meet this requirement.

69.29(6) All programs employing a new delegating nurse after January 1, 2010, shall require the delegating nurse within six months of hire to complete an assisted living manager class or assisted living nursing class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living. A minimum of one delegating nurse from each program must complete the training. If there are multiple delegating nurses and only one delegating nurse completes the training, the delegating nurse who completes the training shall train the other delegating nurses in the Iowa rules and laws on assisted living. As of January 1, 2011, all programs shall have a minimum of one delegating nurse who has completed the training described in this subrule.

69.29(7) The program shall notify the department in writing within ten business days of a change in the program's manager.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.30(231C) Dementia-specific education for program personnel.

69.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

69.30(2) The dementia-specific education or training shall include, at a minimum, the following:

- a. An explanation of Alzheimer's disease and related disorders;
- b. The program's specialized dementia care philosophy and program;
- c. Skills for communicating with persons with dementia;
- d. Skills for communicating with family and friends of persons with dementia;
- e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f. The importance of planned and spontaneous activities;
- g. Skills in providing assistance with instrumental activities of daily living;
- h. The importance of the service plan and social history information;
- i. Skills in working with challenging tenants;
- j. Techniques for simplifying, cueing, and redirecting;
- k. Staff support and stress reduction; and
- l. Medication management and nonpharmacological interventions.

69.30(3) Dementia-specific continuing education.

- a. Except as otherwise provided in this subrule, all personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually.
- b. Direct-contact personnel employed by or contracting with a dementia-specific program or employed by a contracting agency providing staff to a dementia-specific program shall receive a minimum of eight hours of dementia-specific continuing education annually.
- c. Contracted personnel who have no contact with tenants (e.g., persons providing lawn maintenance or snow removal) are not required to receive the two hours of training required in paragraph "a."
- d. The contracting agency may provide the program with documentation of dementia-specific continuing education that meets the requirements of this subrule.

69.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 69.30(1).

69.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, web-based training, and case studies of tenants in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.31(231C) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the tenant along with the occupancy agreement. The managed risk policy shall include the following:

69.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the tenant and the process for managing risk and for upholding tenant autonomy when tenant decision making could result in poor outcomes for the tenant or others; and

69.31(2) A consensus-based process to address specific risk situations. Program staff and the tenant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the tenant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the tenant's file.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—69.32(231C) Life safety—emergency policies and procedures and structural safety requirements.

69.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

- a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;
- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Procedures for fire drills;
- g. Regulations regarding smoking;
- h. Monitoring and testing of smoke-control systems;
- i. Tenant evacuation procedures; and

j. Procedures for reporting and documentation.

69.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program.

69.32(3) The program shall obtain approval from the state fire marshal division of the department of public safety before the installation of any delayed-egress specialized locking systems.

69.32(4) A program serving a person(s) with cognitive disorder or dementia shall have:

a. Written procedures regarding alarm systems, if an alarm system is in place.

b. Written procedures regarding appropriate staff response when a tenant's service plan indicates a risk of elopement or when a tenant exhibits wandering behavior.

c. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.

69.32(5) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for assisted living programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

69.32(6) The program shall have the means to control the maximum temperature of water at sources accessible by a tenant to prevent scalding and shall control the maximum water temperature for tenants with cognitive impairment or dementia or at a tenant's request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.33(231C) Transportation. When transportation services are provided directly or under contract with the program:

69.33(1) The vehicle shall be accessible and appropriate to the tenants who use it, with consideration for any physical disabilities and impairments.

69.33(2) Every tenant transported shall have a seat in the vehicle, except for a tenant who remains in a wheelchair during transport.

69.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

69.33(4) Wheelchairs shall be secured when the vehicle is in motion.

69.33(5) During loading and unloading of a tenant, the driver shall be in the proximate area of the tenants in a vehicle.

69.33(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

69.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.34(231C) Activities.

69.34(1) The program shall provide appropriate activities for each tenant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

69.34(2) Activities shall be planned to support the tenant's service plan and shall be consistent with the program statement and occupancy policies.

69.34(3) A written schedule of activities shall be developed at least monthly and made available to tenants and their legal representatives.

69.34(4) Tenants shall be given the opportunity to choose their levels of participation in all activities offered in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.35(231C) Structural requirements.

69.35(1) General requirements.

a. The structure of the program shall be designed and operated to meet the needs of the tenants.

b. The buildings and grounds shall be well-maintained, clean, safe and sanitary.

c. Programs shall have private dwelling units with a single-action, lockable entrance door.

d. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the lock on an entrance door and shall disable or remove the lock if its presence presents a danger to the health and safety of the tenant.

e. The structure in which a program is housed shall comply with the administrative rules promulgated by the state fire marshal.

f. Programs may have individual cooking facilities within the private dwelling units. Any program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or easily remove appliances and shall disable or remove them if their presence presents a danger to the health and safety of the tenant or others.

69.35(2) *Programs certified prior to July 4, 2001.* Facilities for programs certified prior to July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit shall have not less than 190 square feet of floor area, excluding bathrooms.

c. A dwelling unit used for double occupancy shall have not less than 290 square feet of floor area, excluding bathrooms.

d. The program shall have a minimum of 15 square feet of common area per tenant.

69.35(3) *New construction built on or after July 4, 2001.* Programs operated in new construction built on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 240 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 340 square feet of floor area, excluding bathrooms and door swing.

d. Each dwelling unit shall contain a bathroom, including but not limited to a toilet, sink and bathing facilities. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the sink or bathing facility water control and shall disable or remove the water control if its presence presents a danger to the health and safety of the tenant.

e. Self-closing doors are not required for individual dwelling units, whether in a general or dementia-specific setting, unless the authority with jurisdiction determines that the level of hazard has increased to require the installation of closure hardware (for example, presence of a stove, range or oven).

69.35(4) *Structure being converted to or remodeled for use by a program on or after July 4, 2001.* A program operating in a structure that was converted or remodeled for use for a program on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that has not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 190 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 290 square feet of floor area, excluding bathrooms and door swing.

d. Each dwelling unit shall have a bathroom, including but not limited to a toilet, sink and bathing facility.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.36(231C) Dwelling units in dementia-specific programs. Dementia-specific programs are exempt from the requirements in subrules 69.35(2) to 69.35(4) as follows:

69.36(1) For a program built in a family or neighborhood design:

a. Each dwelling unit used for single occupancy shall have a total square footage of not less than 150 square feet of floor area, excluding a bathroom; and

b. Each dwelling unit used for double occupancy shall have a total square footage of not less than 250 square feet of floor area, excluding a bathroom.

69.36(2) Dementia-specific programs may choose not to provide bathing facilities in the dwelling units.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.37(231C) Landlord and tenant Act. Iowa Code chapter 562A, the uniform residential landlord and tenant Act, shall apply to programs under this chapter.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.38(83GA,SF203) Identification of veteran's benefit eligibility.

69.38(1) Within 30 days of a tenant's admission to an assisted living program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the tenant or the tenant's personal representative whether the tenant is a veteran or whether the tenant is the spouse, widow, or dependent of a veteran and shall document the response.

69.38(2) If the program determines that the tenant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the tenant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

69.38(3) If a tenant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.39(231C) 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. "Respite care individual" means an individual receiving respite care services. An assisted living program which chooses to provide respite care services must meet the following requirements related to respite care services and must be certified as an assisted living program.

69.39(1) *Length of stay.* Respite care services shall be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual's stay in the program.

69.39(2) *No separate certificate.* An assisted living program that chooses to provide respite care services is not required to obtain a separate certificate or pay a certification fee.

69.39(3) *Assessment.* The program nurse shall conduct an assessment of the respite care individual prior to the respite care individual's stay. The assessment shall be documented and shall include, at a minimum:

- a. Safety and supervision needs;
- b. Medical needs;
- c. Dietary needs; and
- d. Bowel and bladder function.

69.39(4) *Written direction to staff.* The program nurse shall document the care needs of the respite care individual based on the assessment conducted pursuant to subrule 69.39(3) and provide the documentation to staff.

69.39(5) *Involuntary termination of respite care services.* The program may terminate the respite care services for a respite care individual. Rule 481—69.24(231C) shall not apply. The program shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite care services, including notification of the respite care individual's family or legal representative.

69.39(6) *Contract.* The program shall have a contract with each respite care individual. The contract shall, at a minimum, include the following:

- a. The time period during which the individual will be considered to be receiving respite care services, not to exceed 30 consecutive days.
- b. A description of all fees, charges, and rates for respite care services, and any additional and optional services and their related costs.
- c. A statement that respite care services may be involuntarily terminated. Rule 481—69.24(231C) shall not apply.
- d. Identification of the party responsible for payment of fees and identification of the respite care individual's legal representative, if any.
- e. Identification of emergency contacts, including but not limited to the respite care individual's family member(s) and physician.
- f. A statement that all respite care individual information shall be maintained in a confidential manner to the extent required under state and federal law.
- g. The refund policy, if applicable.
- h. A statement regarding billing and payment procedures.

69.39(7) *Admission to program.*

- a. A respite care individual shall not be considered an admission to the program.

- b.* A respite care individual shall be included in the program's census.
- c.* The program shall not enter into multiple 30-day contracts with a respite care individual in order to lengthen the respite care individual's stay in the program.
- d.* If a respite care individual remains in the program beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a tenant in the program. The program shall follow all requirements for admission to the program.

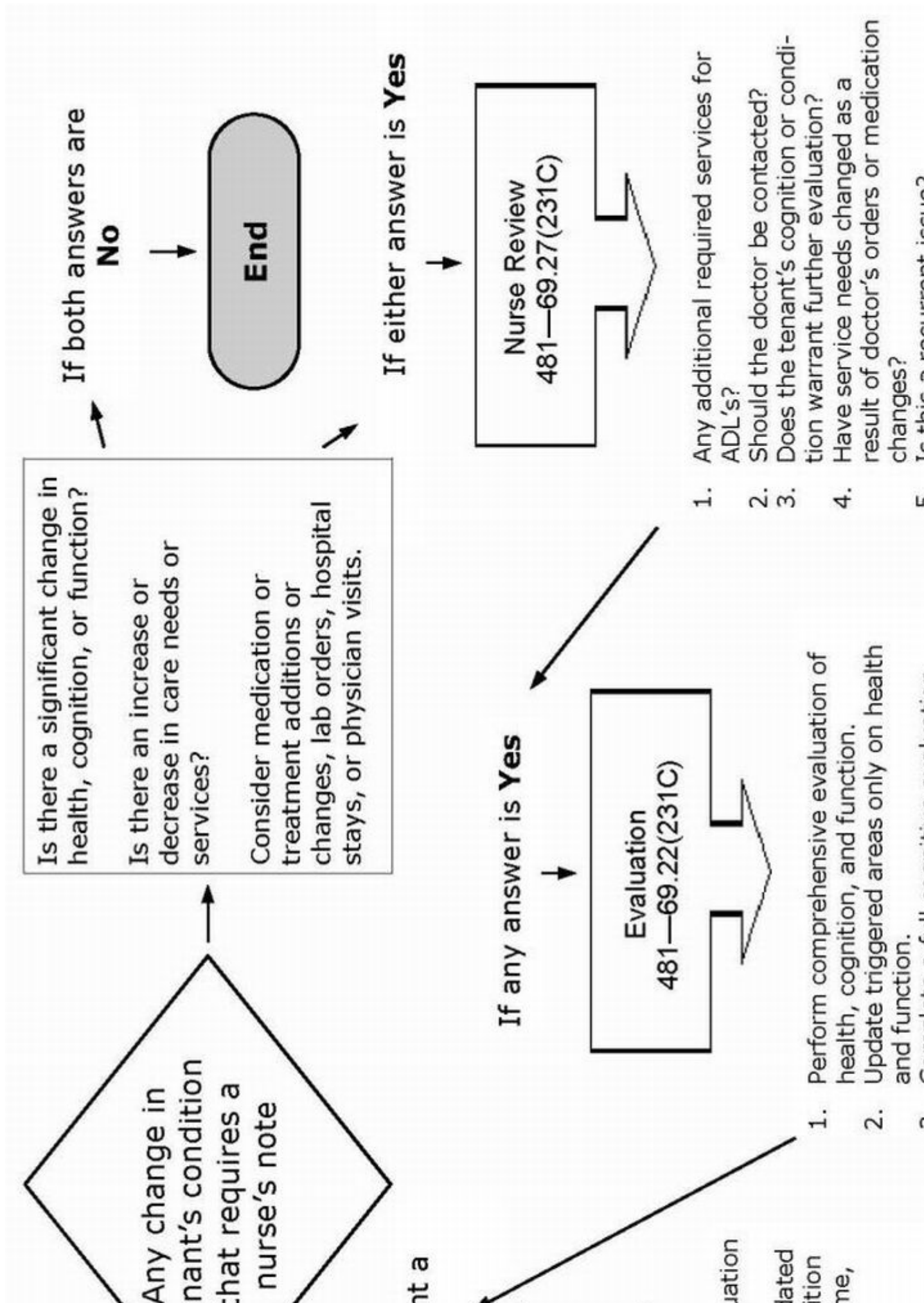
69.39(8) *Level of care criteria.* Respite care individuals must meet the criteria found in subrule 69.23(1) for admission and retention of tenants. Respite care services shall not be provided by an assisted living program to persons requiring a level of care which is higher than the level of care the program is certified to provide.

69.39(9) *Accessibility by the department.* The department shall have the same access to respite care services records as provided in 481—subrule 67.10(2).

[ARC 1667C, IAB 10/15/14, effective 11/19/14]

These rules are intended to implement Iowa Code chapter 231C.

Table A



[Filed ARC 8176B (Notice ARC 7878B, IAB 6/17/09), IAB 9/23/09, effective 1/1/10]
[Filed ARC 1376C (Notice ARC 1291C, IAB 1/22/14), IAB 3/19/14, effective 4/23/14]
[Filed ARC 1667C (Notice ARC 1511C, IAB 6/25/14), IAB 10/15/14, effective 11/19/14]
[Filed ARC 1927C (Notice ARC 1860C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]
[Filed ARC 2463C (Notice ARC 2200C, IAB 10/14/15), IAB 3/16/16, effective 4/20/16]
[Filed ARC 4976C (Notice ARC 4867C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]
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CHAPTER 70 ADULT DAY SERVICES

481—70.1(231D) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231D, the following definitions apply.

“Accredited” means that the program has received accreditation from an accreditation entity recognized in subrule 70.14(1).

“Adult day services” or *“adult day services program”* or *“program”* means an organized program providing a variety of health-related care, social services, and other related support services for 16 hours or less in a 24-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.

“Applicable requirements” means Iowa Code chapter 231D, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“CARF” means the Commission on Accreditation of Rehabilitation Facilities.

“Change of ownership” means the purchase, transfer, assignment or lease of a certified adult day services program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

“Cognitive disorder” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet criteria for dementia, delirium, or amnesic disorder.

“Contractual agreement” means a written agreement between the program and the participant or legal representative.

“Dementia-specific adult day services program” means an adult day services program certified under this chapter that:

1. Serves fewer than 55 participants and has 5 or more participants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more participants and 10 percent or more of the participants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“Functional impairment” means a psychological, cognitive, or physical impairment that creates an inability to perform personal and instrumental activities of daily living and associated tasks and that necessitates some form of supervision or assistance or both.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a participant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the participant for more than 21 days by a registered nurse.

For example, a participant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the participant receive frequent supervision may be considered medically unstable.

“Nonaccredited” means that the program has been certified under the provisions of this chapter but has not received accreditation from the accreditation entity recognized in subrule 70.14(1).

“Participant” means an individual who is the recipient of services provided by an adult day services program.

“Participant’s legal representative” means a person appointed by the court to act on behalf of a participant, or a person acting pursuant to a power of attorney.

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent participant who lacks the ability to assist in bladder or bowel continence care.

“Unmanageable verbal abuse” means repeated verbalizations against participants or staff that persist despite all interventions and negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks.

“Visiting day(s)” means up to 16 hours in a two-day period during which a person may visit a program prior to admission for the purpose of assessing eligibility for the program and personal satisfaction.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.2(231D) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

70.2(1) Posting requirements. A program's current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

70.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific adult day services program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—70.30(231D) and in subrule 70.32(2), which includes the requirements relating to door alarms.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.3(231D) Certification of a nonaccredited program—application process.

70.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

70.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

70.3(3) The appropriate fee as stated in Iowa Code section 231D.4 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

70.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.4(231D) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

70.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

70.4(2) A statement disclosing whether the individuals listed in subrule 70.4(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

70.4(3) A statement disclosing whether any of the individuals listed in subrule 70.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

70.4(4) The policy and procedure for evaluation of each participant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each participant shall be included.

70.4(5) The policy and procedure for service plans.

70.4(6) The policy and procedure for addressing medication needs of participants.

70.4(7) The policy and procedure for accidents and emergency response.

70.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

70.4(9) The policy and procedure for activities.

70.4(10) The policy and procedure for transportation.

70.4(11) The policy and procedure for staffing and training.

70.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

70.4(13) The policy and procedure for managing risk and upholding participant autonomy when participant decision making results in poor outcomes for the participant or others.

70.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

70.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 70.32(2).

70.4(16) The participant contractual agreement and all attachments.

70.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.

70.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.

70.4(19) The fee set forth in Iowa Code section 231D.4.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.5(231D) Initial certification process for a nonaccredited program.

70.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether the proposed program meets applicable requirements.

70.5(2) If, based upon the review of the complete application, including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept participants.

70.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.

70.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

70.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

70.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

70.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.6(231D) Expiration of the certification of a nonaccredited program.

70.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.

70.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.7(231D) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

70.7(1) Submit one copy of the completed application, including the information required in rule 481—70.4(231D), associated documentation, and the recertification fee as listed in Iowa Code section 231D.4 to the department at the address stated in subrule 70.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

70.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.8(231D) Notification of recertification for a nonaccredited program.

70.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

70.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

70.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

70.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

70.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

70.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

70.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.9(231D) Certification or recertification of an accredited program—application process.

70.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with the requirements of the state fire marshal division of the department of public safety pursuant to this chapter.

d. Submit the appropriate fees as set forth in Iowa Code section 231D.4.

70.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.10(231D) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

70.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

70.10(2) A statement disclosing whether the individuals listed in subrule 70.10(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

70.10(3) A statement disclosing whether any of the individuals listed in subrule 70.10(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1, or licensed hospital as defined under Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

70.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.11(231D) Initial certification process for an accredited program.

70.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether the accredited program meets applicable requirements and whether certification will be issued.

70.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

70.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

70.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.12(231D) Recertification process for an accredited program.

70.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

70.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231D.4 to the department at the address stated in subrule 70.9(1) at least 90 calendar days prior to the expiration of the program's certification.

70.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements and make a recertification decision.

70.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

70.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.13(231D) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the "Entities Book" tab.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.14(231D) Recognized accrediting entity.

70.14(1) The department designates CARF as a recognized accrediting entity for programs.

70.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

70.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

70.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.15(231D) Requirements for an accredited program. Each accredited program that is certified by the department shall:

70.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

70.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

70.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program's accreditation.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.16(231D) Maintenance of program accreditation.

70.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

- a.* The program complies with the requirements outlined in rule 481—70.15(231D).
- b.* The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

70.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

70.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.17(231D) Change of ownership—notification to the department.

70.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

70.17(2) In order to transfer certification, the applicant must:

- a.* Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231D and 481—Chapter 67 and this chapter; and
- b.* At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

70.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.18(231D) Plan reviews of a building for a new program.

70.18(1) Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.18(2) A program applicant shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.18(4) The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

70.18(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

70.18(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.19(231D) Plan review prior to the remodeling of a building for a certified program.

70.19(1) Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—70.35(231D). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.19(2) A certified program shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.19(4) The state fire marshal division of the department of public safety shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.19(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety in 20 working days to state how any noncompliance will be resolved.

70.19(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

70.19(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.20(231D) Cessation of program operation.

70.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. The program shall provide, at least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification to the department of the date on which the program will cease operation, which includes seeking decertification.

70.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department at least 90 days prior to expiration of the certification.

70.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly discharge or transition of all participants within the 90-day period specified by subrule 70.20(2).

70.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of participants during the discharge process or transition process.

70.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.21(231D) Contractual agreement.

70.21(1) The contractual agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the participant or the participant's legal representative to understand.

70.21(2) In addition to the requirements of Iowa Code section 231D.17, the written contractual agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

- a. The telephone number for filing a complaint with the department.
- b. The telephone number for reporting dependent adult abuse.
- c. A copy of the program's statement on participants' rights.
- d. A statement that the program will notify the participant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.
- e. A copy of the program's admission and discharge criteria.

70.21(3) The contractual agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

70.21(4) A copy of the contractual agreement shall be provided to the participant or the participant's legal representative, if any, and a copy shall be kept by the program.

70.21(5) A copy of the most current contractual agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the contractual agreement is available to all persons upon request.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.22(231D) Evaluation of participant.

70.22(1) *Evaluation prior to participation.* A program shall evaluate each prospective participant's functional, cognitive and health status prior to the participant's signing the contractual agreement and participating in the program, with the exception of visiting day(s), to determine the participant's eligibility for the program, including whether the services needed are available. The cognitive evaluation shall be appropriate to the population served. When the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the participant subsequently returns to the participant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

70.22(2) *Evaluation within 30 days of participation and with significant change.* A program shall evaluate each participant's functional, cognitive and health status within 30 days of the participant's beginning participation in the program. A program shall also evaluate each participant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the participant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the participant has not exhibited a significant change.

70.22(3) *Requirements for visiting day(s).* Evaluation of the participant is not required during visiting day(s), but the program shall provide the participant or the participant's legal representative with a written explanation of the expectations for the visiting day(s).

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.23(231D) Criteria for admission and retention of participants.

70.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a participant who:

- a. Requires routine, three-person assistance with standing, transfer or evacuation; or
- b. Is dangerous to self or other participants or staff, including but not limited to a participant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse; or
 - (2) Is in an acute stage of alcoholism, drug addiction, or mental illness; or
- c. Is under the age of 18.

70.23(2) *Disclosure of additional participation and discharge criteria.* A program may have additional participation or discharge criteria if the criteria are disclosed in the written contractual agreement prior to the participant's participation in the program.

70.23(3) *Assistance with discharge from the program.* A program shall provide assistance to a participant and the participant's legal representative, if applicable, to ensure a safe and orderly discharge from the program when the participant exceeds the program's criteria for admission and retention.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1547C, IAB 7/23/14, effective 8/27/14]

481—70.24(231D) Involuntary discharge from the program.

70.24(1) *Program initiation of discharge.* If a program initiates the involuntary discharge of a participant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the participant or participant's legal representative contests the discharge, the following procedures shall apply:

- a. The program shall notify the participant or participant's legal representative, in accordance with the contractual agreement, of the need to discharge the participant and of the reason for the discharge.
- b. If, following the internal appeal process, the program upholds the discharge decision, the participant or participant's legal representative may utilize other remedies authorized by law to contest the discharge.

70.24(2) *Discharge pursuant to results of monitoring or complaint or program-reported incident investigation by the department.* If one or more participants are identified as exceeding the admission and retention criteria for participants and need to be discharged as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

- a. *Notification of the program.* Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any participant who exceeds admission and retention criteria.

b. Notification of others. Each identified participant, the participant's legal representative, if applicable, and other providers of services to the participant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

c. Program agreement with the department's finding. If the program agrees with the department's finding and the program begins involuntary discharge proceedings, the program's internal appeal process in subrule 70.24(1) shall be utilized for appeals.

d. Program disagreement with the department's finding. If the program does not agree with the department's finding that the participant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties. In the program's response, the program shall identify the participant, list the known responses from others, and note the program's agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) Consideration of response. Within 10 working days of receipt of the program's response for each identified participant, the department shall consider the response and make a final finding regarding the continued retention of a participant.

(2) Amending the regulatory insufficiency. If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) Retaining regulatory insufficiency. If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision.

(4) Effect of the filing of an appeal. If an appeal is filed, the participant who exceeds admission and retention criteria shall be allowed to continue to participate in the program until all administrative appeals have been exhausted. Appeals filed that relate to the participant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the participant's needs shall be provided during that period of time.

(5) Request for waiver of criteria for retention of a participant in a program. To allow a participant to continue to participate in the program, the program may request a waiver of criteria for retention of a participant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.25(231D) Participant documents.

70.25(1) Documentation for each participant shall be maintained by the program and shall include:

a. A participation record including the participant's name, birth date, and home address; identification numbers; date of beginning participation; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;

b. Application forms;

c. The initial evaluations and updates;

d. A nutritional assessment as necessary;

e. The initial individual service plan and updates;

f. Signed authorizations for permission to release medical information, photographs, or other media information as necessary;

g. A signed authorization for the participant to receive emergency medical care as necessary;

h. A signed managed risk policy and signed managed risk consensus agreements, if any;

i. When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;

j. Medication lists, which shall be maintained in conformance with 481—paragraph 67.5(2) "d";

k. Advance health care directives as applicable;

l. A complete copy of the participant's contractual agreement, including any updates;

m. A written acknowledgment that the participant or the participant's legal representative, if applicable, has been fully informed of the participant's rights;

n. A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;

o. Incident reports involving the participant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the participant's medical record);

p. A copy of waivers of admission or retention criteria, if any;

q. When the participant is unable to advocate on the participant's own behalf or the participant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and

r. Authorizations for the release of information, if any.

70.25(2) The program records relating to a participant shall be retained for a minimum of three years after the discharge or death of the participant.

70.25(3) All records shall be protected from loss, damage and unauthorized use.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 4976C, IAB 3/11/20, effective 4/15/20]

481—70.26(231D) Service plans.

70.26(1) A service plan shall be developed for each participant based on the evaluations conducted in accordance with subrules 70.22(1) and 70.22(2) and shall be designed to meet the specific service needs of the individual participant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

70.26(2) Prior to the participant's signing the contractual agreement and participating in the program, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the participant and, at the participant's request, with other individuals identified by the participant, and, if applicable, with the participant's legal representative. All persons who develop the plan and the participant or the participant's legal representative shall sign the plan.

70.26(3) When a participant needs personal care or health-related care, the service plan shall be updated within 30 days of the participant's participation and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

70.26(4) The service plan shall be individualized and shall indicate, at a minimum:

a. The participant's identified needs and preferences for assistance;

b. Any services and care to be provided pursuant to the contractual agreement;

c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy; and

d. For participants who are unable to plan their own activities, including participants with dementia, planned and spontaneous activities based on the participant's abilities and personal interests.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.27(231D) Nurse review. If a participant does not receive personal or health-related care, but an observed significant change in the participant's condition occurs, a nurse review shall be conducted. If a participant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation:

70.27(1) To monitor, at least every 90 days, or after a significant change in the participant's condition, any participant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

70.27(2) To ensure that health care professionals' orders are current for participants who receive health care professional-directed care from the program; and

70.27(3) To assess and document the health status of each participant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the participant's health status; and

70.27(4) To provide the program with written documentation of the activities under the service plan, as set forth in rule 481—70.26(231D), showing the time, date and signature.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a participant, nurse review is not required.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.28(231D) Food service.

70.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals, unless otherwise noted in the contractual agreement.

70.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

70.28(3) Menus shall be planned to provide the following percentage 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 based on the number of meals provided by the program:

- a. A minimum of 33½ percent if the program provides one meal per day;
- b. A minimum of 66½ percent if the program provides two meals per day; and
- c. One hundred percent if the program provides three meals per day.

70.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

70.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.

a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:

- (1) Obtaining certification as a dietary manager; or
- (2) Obtaining certification as a food protection professional; or

(3) Successfully completing an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another program may be substituted if the program's curriculum includes substantially similar competencies to a program that meets the requirements of the Food Code and the provider of the program files with the department a statement indicating that the program provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph "a," the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

70.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to participants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with participants may be stored in the program's kitchen. Participant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of participant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for participant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

70.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.29(231D) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

70.29(1) No fewer than two staff persons who monitor participants shall be awake and on duty during all hours of operation when two or more participants are participating in the program.

70.29(2) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

70.29(3) A program that serves one or more participants with cognitive disorders or dementia shall follow written procedures that address how the program will respond to the emergency needs of the participants.

70.29(4) The program shall notify the department in writing within ten business days of a change in the program's manager.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.30(231D) Dementia-specific education for program personnel.

70.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

70.30(2) The dementia-specific education or training shall include, at a minimum, the following:

- a.* An explanation of Alzheimer's disease and related disorders;
- b.* The program's specialized dementia care philosophy and program;
- c.* Skills for communicating with persons with dementia;
- d.* Skills for communicating with family and friends of persons with dementia;
- e.* An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f.* The importance of planned and spontaneous activities;
- g.* Skills in providing assistance with instrumental activities of daily living;
- h.* The importance of the service plan and social history information;
- i.* Skills in working with challenging participants;
- j.* Techniques for simplifying, cueing, and redirecting;
- k.* Staff support and stress reduction; and
- l.* Medication management and nonpharmacological interventions.

70.30(3) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of eight hours of dementia-specific continuing education annually.

70.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 70.30(1).

70.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, Web-based training, and case studies of participants in the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.31(231D) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the participant along with the contractual agreement. The managed risk policy shall include the following:

70.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the participant and the process for managing risk and for upholding participant autonomy when participant decision making results in poor outcomes for the participant or others; and

70.31(2) A consensus-based process to address specific risk situations. Program staff and the participant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the participant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the participant's file.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.32(231D) Life safety—emergency policies and procedures and structural safety requirements.

70.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

- a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;
- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Procedures for fire drills;
- g. Regulations regarding smoking;
- h. Monitoring and testing of smoke-control systems;
- i. Participant evacuation procedures; and
- j. Procedures for reporting and documentation.

70.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:

- a. Written procedures regarding alarm systems and appropriate staff response when a participant's service plan indicates a risk of elopement or a participant exhibits wandering behavior.
- b. Written procedures regarding appropriate staff response if a participant with cognitive disorder or dementia is missing.
- c. The program shall obtain approval from the state fire marshal division before the installation of any delayed-egress specialized locking systems.

70.32(3) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for adult day services programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

70.32(4) The program shall have the means to control the maximum temperature of water at sources accessible by a participant to prevent scalding and shall control the maximum water temperature for participants with cognitive impairment or dementia or at a participant's request.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.33(231D) Transportation. When transportation services are provided directly or under contract with the program:

70.33(1) The vehicle shall be accessible and appropriate to the participants who use it, with consideration for any physical disabilities and impairments.

70.33(2) Every participant transported shall have a seat in the vehicle, except for a participant who remains in a wheelchair during transport.

70.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

70.33(4) Wheelchairs shall be secured when the vehicle is in motion.

70.33(5) During loading and unloading of a participant, the driver shall be in the proximate area of the participants in a vehicle.

70.33(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

70.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.34(231D) Activities.

70.34(1) The program shall provide appropriate activities for each participant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values,

experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

70.34(2) Activities shall be planned to support the participant's service plan and shall be consistent with the program statement and participation policies.

70.34(3) A written schedule of activities shall be developed at least monthly and made available to participants and their legal representatives.

70.34(4) Participants shall be given the opportunity to choose their levels of participation in all activities offered in the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.35(231D) Structural requirements.

70.35(1) The structure, equipment and physical environment of the program shall be designed and operated to meet the needs of the participants. The building, grounds and equipment shall be well-maintained, clean, safe and sanitary.

70.35(2) There shall be at least one toilet for every ten participants and staff members.

70.35(3) Toilets and bathing and toileting appliances shall be equipped for use by participants with multiple disabilities.

70.35(4) There shall be a ratio of at least one hand-washing sink for every two toilets. The sink(s) shall be proximate to the toilets. Hand-washing facilities shall be readily accessible to participants and staff.

70.35(5) Shower and tub areas, if provided, shall be equipped with grab bars and slip-resistant surfaces.

70.35(6) Signaling emergency call devices shall be installed or placed in all bathroom areas, restroom stalls and showers, if any.

70.35(7) A telephone shall be available to participants to make and receive calls in a private manner and for emergency purposes.

70.35(8) A storage area(s) shall be provided for storage of program supplies and participants' possessions, which shall be stored in such a manner that, when not in use, will prevent personal injury to participants and staff.

70.35(9) The program shall provide a separate area to permit privacy for evaluations and to isolate participants who become ill.

70.35(10) The program shall meet other building and public safety codes, including rules pertaining to accessibility contained in the state building code in 661—Chapter 302 and provisions of the state building code relating to persons with disabilities.

70.35(11) The program shall meet the requirements in subrule 70.32(4).

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.36(231D) Identification of veteran's benefit eligibility.

70.36(1) Within 30 days of a participant's participation in an adult day services program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the participant or the participant's personal representative whether the participant is a veteran or whether the participant is the spouse, widow or dependent of a veteran and shall document the response.

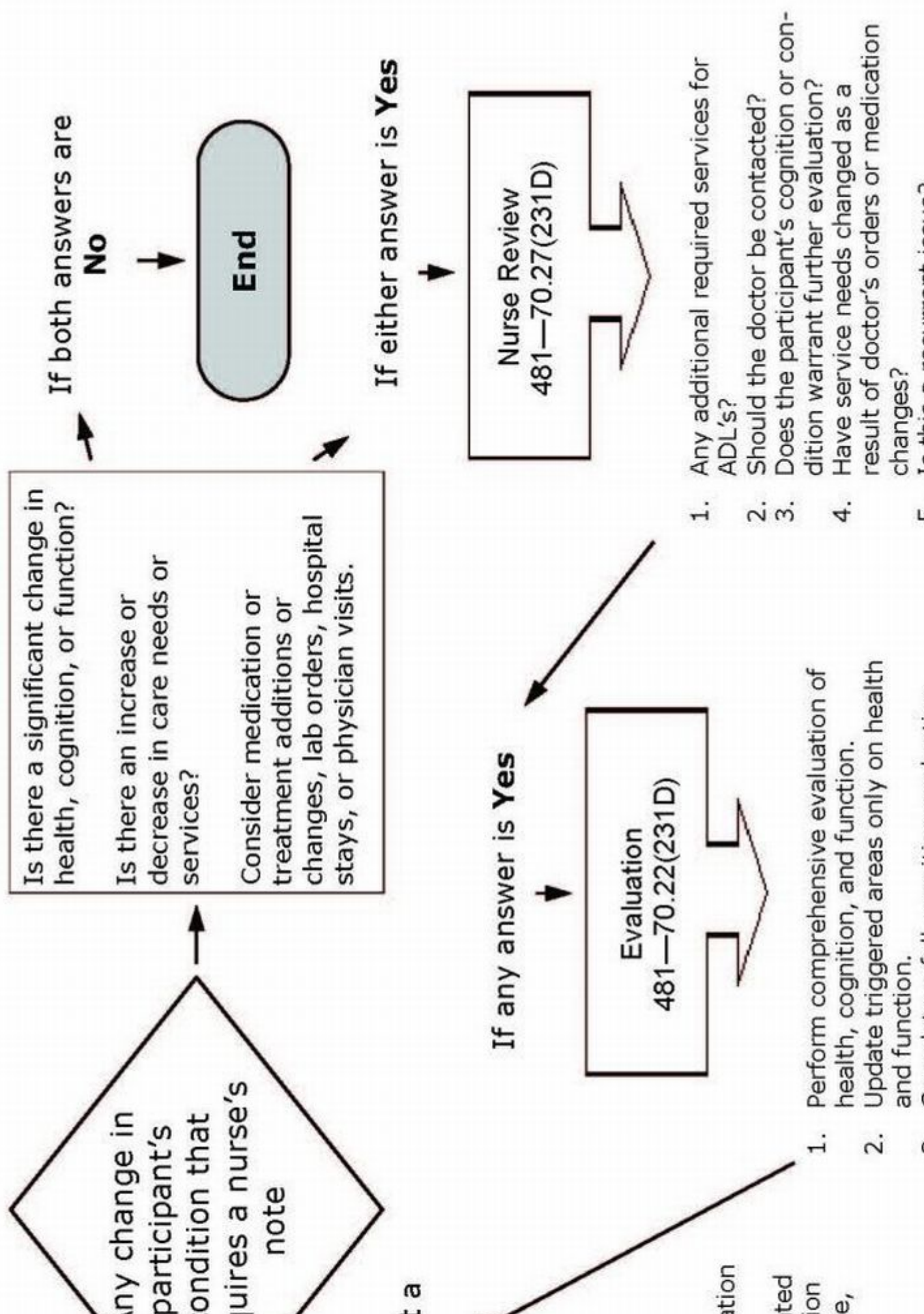
70.36(2) If the program determines that the participant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the participant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

70.36(3) If a participant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 231D.

Table A



[Filed ARC 8177B (Notice ARC 7959B, IAB 7/15/09), IAB 9/23/09, effective 1/1/10]
[Filed ARC 1376C (Notice ARC 1291C, IAB 1/22/14), IAB 3/19/14, effective 4/23/14]
[Filed ARC 1547C (Notice ARC 1472C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
[Filed ARC 1927C (Notice ARC 1860C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]
[Filed ARC 2463C (Notice ARC 2200C, IAB 10/14/15), IAB 3/16/16, effective 4/20/16]
[Filed ARC 4976C (Notice ARC 4867C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]

CHAPTER 71
SUBACUTE MENTAL HEALTH CARE FACILITIES

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

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

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

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

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

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

“Medication” means any drug including over-the-counter substances ordered and administered under the direction of a physician, physician assistant or advanced registered nurse practitioner.

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

“Psychiatric care” means the provision of care to patients in a psychiatric unit of an acute care hospital; a freestanding psychiatric hospital; or a mental health clinic.

“Recovery” means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

“Recovery principles” means the ten guiding principles of recovery outlined by the federal Substance Abuse and Mental Health Services Administration (www.samhsa.gov): hope, person-driven, many pathways, holistic, peer support, relational, culture, addresses trauma, strengths/responsibility, and respect.

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

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

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.3(135G) Application for licensure.

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

- a. Submit a résumé of care with a narrative which includes the following information:
 - (1) The purpose of the facility.
 - (2) A description of the target population and limitations on resident eligibility.

(3) Identification and description of the services the facility will provide, which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services, including staff, physical facilities and funds.

(4) A description of the human services system available in the area including, but not limited to, social, public health, visiting nurse, vocational training, and employment services, residential living arrangements, and services of private agencies.

(5) A description of working relationships with human services agencies when applicable, which shall include at a minimum:

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

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

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

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

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

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

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

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

- b. Submits an application to the department.

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

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

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

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

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

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

71.3(5) *Beds per facility.* A single facility shall not be licensed for more than 16 beds.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 2068C, IAB 7/22/15, effective 8/26/15; ARC 4431C, IAB 5/8/19, effective 6/12/19]

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

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

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

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

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.5(135G) Waivers.

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

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

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

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 5719C, IAB 6/16/21, effective 7/21/21]

481—71.6(135G) Provisional license.

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

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

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

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

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

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

a. How the facility will correct the deficient practice;

b. How the facility will act to protect residents;

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.7(135G) General requirements.

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

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

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

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

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

71.8(1) The department shall be notified:

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

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

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

d. Within two weeks of any change in administrator;

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

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

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

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

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed.

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

a. Of any accident causing major injury. "Major injury" shall be defined as any injury which:

(1) Results in death; or

(2) Requires admission to a higher level of care for treatment, other than for observation; or

(3) Requires consultation with the attending physician, designee of the physician, physician assistant, or advanced registered nurse practitioner who determines, in writing, on a form designated by the department, that an

injury is a “major injury” based upon the circumstances of the accident, the previous functional ability of the resident, and the resident’s prognosis;

- b. When a resident attempts suicide, regardless of injury;
- c. When damage to the facility is caused by a natural or other disaster;
- d. When a fire occurs in a facility and the fire requires the notification of emergency services, requires full or partial evacuation of the facility, or causes physical injury to a resident;
- e. When a defect or failure occurs in the fire sprinkler system for more than 10 hours 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 or the state fire marshal’s designee.)

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19; ARC 6974C, IAB 4/5/23, effective 5/10/23]

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.10(135G) Administrator.

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

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

- a. Be a mental health professional, as defined in Iowa Code section 228.1(7), with at least one year of experience in an administrative capacity; or
- b. Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or
- c. Have a master’s degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field; or
- d. Be a licensed nursing home administrator.

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

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

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

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

- a. Be responsible for the implementation of procedures to support the policies established by the licensee;
- b. Select and direct competent personnel who provide services for the subacute care facility;
- c. Make a policies and procedures manual available to all staff;
- d. Be responsible for a monthly in-service educational program for all employees and maintain records of programs and participants;
- e. Make staff payroll records available for departmental review as needed;
- f. Furnish to the department within 30 days of the department’s request statistical information concerning the operation of the facility.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.11(135G) Administration.

71.11(1) The licensee shall:

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

71.11(2) The policy and procedures shall include:

- a. Personnel;
- b. Admission;
- c. Evaluation services;

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.12(135G) Personnel.

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

71.12(2) Staffing shall include at minimum:

- a.* Twenty-four-hour-per-day, seven-day-per-week availability of on-call psychiatrist or advanced registered nurse practitioner with at least one year of experience in psychiatric care;
- b.* Twenty-four-hour-per-day, seven-day-per-week availability of on-call registered nurse with at least two years of experience in psychiatric care or a registered nurse with a bachelor of science in nursing (BSN) and at least one year of experience in psychiatric care;
- c.* A mental health professional as defined in Iowa Code section 228.1(7);
- d.* Direct care staff with at least one year of experience in a mental health care setting; and
- e.* Social service staff at the bachelor level with at least one year of experience in a mental health care setting.

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

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

71.12(4) The facility shall require regular health examinations for all personnel. Employees shall have a health examination within 12 months prior to beginning employment and regular examinations thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee, including screening and testing for tuberculosis as described in 481—Chapter 59.

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

71.12(5) Personnel record.

- a.* A personnel record shall be kept for each employee.
- b.* The record shall include the employee's:
 - (1) Name and address,
 - (2) Social security number,
 - (3) Date of birth,
 - (4) Date of employment,

- (5) References,
- (6) Position in the facility,
- (7) Job description,
- (8) Documentation of experience and education,
- (9) Criminal history, child abuse and dependent adult abuse background checks,
- (10) Staff training records,
- (11) Annual performance evaluation,
- (12) Documentation of disciplinary action,
- (13) Date and reason for discharge or resignation,
- (14) Current physical examination.

71.12(6) Orders for medications and treatments shall be correctly implemented by qualified personnel.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

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

71.13(1) *General admission policies.*

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

71.13(2) *Admission requirements.*

- a. Eligibility for individualized subacute mental health services will be determined by the standardized preadmission screening utilized by the facility. The screening shall be conducted by a mental health professional as defined in Iowa Code section 228.1(7), a physician, a physician assistant, or an advanced registered nurse practitioner.
- b. In order to be admitted, the individual must:
 - (1) Be 18 years or older;
 - (2) During the past year, have had a diagnosable mental, behavioral or emotional disorder that meets the diagnostic criteria specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM);
 - (3) Demonstrate a high degree of impairment through significantly impaired mental, social, or educational functioning arising from the psychiatric condition or serious emotional disturbance;
 - (4) Demonstrate an impairment that severely limits the skills necessary to maintain an adequate level of functioning outside a treatment program and requires active treatment to obtain an adequate level of functioning;
 - (5) Demonstrate a low level of stability through any two of the following conditions:
 1. The individual presents moderate to high risk of danger to self or others.
 2. The individual lacks adequate skills or social support to address mental health symptoms.
 3. The individual is medically stable but requires observation and care for stabilization of a mental health condition or impairment.

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

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

71.13(4) *Exclusion criteria.*

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

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

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

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

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

71.13(7) Discharge or transfer.

- a. The facility shall give prior notification to the resident, as well as the resident's next of kin, legal representative, attending physician or advanced registered nurse practitioner, and sponsoring agency, if any, prior to transfer or discharge of any resident.
- b. The subacute care facility shall make proper arrangements for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative.
- c. The facility shall make advance notification to the receiving facility prior to the transfer of any resident if the resident is to be transferred to another facility.
 - (1) Notification shall be made no less than 24 hours prior to transfer unless paragraph 71.13(6) "d" applies.
 - (2) Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being transferred.
- d. The appropriate record as set forth in subrule 71.20(1) shall accompany the resident when the resident is transferred or discharged.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 2068C, IAB 7/22/15, effective 8/26/15; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.14(135G) Treatment plan.

71.14(1) A treatment plan must be developed with each resident. The plan must be based on initial and ongoing assessment of need, be designed to resolve the acute or crisis mental health symptoms or the imminent risk of acute or crisis mental health symptoms, and be completed within six hours of admission, or no later than 12 noon following admission if the resident is admitted between 8 p.m. and 6 a.m.

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

- a. The resident's name.
- b. The date the plan is developed.
- c. Standardized diagnostic formulations, including but not limited to the current Diagnostic and Statistical Manual (DSM) or the current International Statistical Classification of Diseases and Related Health Problems (ICD).
- d. Problems and strengths of the resident that are to be addressed.
- e. Observable and measurable individual objectives that relate to the specific problems identified.
- f. Interventions that address specific objectives, identification of staff responsible for interventions, and planned frequency of interventions.
- g. Signatures of mental health professionals responsible for developing the plan, including the qualified prescriber.
- h. Signatures of the resident and any parent, guardian, conservator, or legal custodian. Reasons for refusal to sign or inability to participate in treatment plan development must be documented.
- i. A projected discharge date and anticipated postdischarge needs, including documentation of resources needed in the community.

j. Review of the treatment plan by the appropriate treatment staff at least daily and upon completion of the stated goals or objectives and documentation of the following:

- (1) Progress toward each treatment objective, with revisions as indicated; and
- (2) Status of discharge plans, including availability of resources needed by the resident in the community, with revisions as indicated.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.15(135G) Crisis intervention.

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

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14]

481—71.16(135G) Seclusion and restraint.

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

a. A subacute care facility utilizing a seclusion room shall have written policies regarding its use. The policy shall:

- (1) Specify the types of behavior that may result in seclusion room placement.
- (2) Delineate the licensed personnel who may authorize use of the seclusion room.
- (3) Require documentation of the time in the seclusion room, the reasons for use of the seclusion room, and the reasons for any extension of time beyond one hour. Under no circumstances shall the use of the seclusion room exceed four hours.

(4) Require notice to residents of the types of behavior that may result in seclusion room placement.

b. A staff member shall always be in hearing distance of the seclusion room, and the resident shall be visually checked by the staff at least every 15 minutes. Every check shall be documented in writing.

c. A seclusion room shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. A seclusion room shall only be used when a less restrictive alternative has failed and:

- (1) In an emergency to prevent injury to the resident or to others; or
- (2) For crisis intervention.

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

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

- (1) In an emergency to prevent injury to the resident or to others; or
- (2) For crisis intervention.

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

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

d. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident.

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

71.16(3) *Orders for restraint or seclusion.* An order for restraint or seclusion shall not be written as a standing order or on an as-needed basis.

a. Each order for restraint or seclusion shall include:

- (1) The name of the ordering physician, physician assistant or advanced registered nurse practitioner.
- (2) The date and time the order is obtained.
- (3) The emergency safety intervention ordered, including the length of time for which restraint or seclusion is authorized.

b. Orders for restraint or seclusion must be by a physician, physician assistant or advanced registered nurse practitioner.

(1) Verbal orders must be received while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends and must be verified in writing in the resident's record by the physician, physician assistant or advanced registered nurse practitioner.

(2) Once the one-time order for the specific resident in an emergency safety situation has expired, it may not be renewed on a planned, anticipated, or as-needed basis.

71.16(4) *Simultaneous use prohibited.* Restraint and seclusion shall not be used simultaneously.

71.16(5) *Documentation of use of restraint or seclusion.* Staff must document in the resident's record and in a centralized tracking system any use of restraint or seclusion.

a. Documentation must be completed by the end of the shift in which the intervention occurs or during the shift in which it ends.

b. Documentation shall include:

- (1) The order for restraint or seclusion.
- (2) The time the emergency safety intervention began and ended.
- (3) The emergency safety situation that required restraint or seclusion.
- (4) The name of staff involved in the emergency safety intervention.
- (5) The interventions used and their outcomes.
- (6) The signature of the physician, physician assistant or advanced registered nurse practitioner.

71.16(6) *Meeting to process restraint or seclusion.* As soon as reasonably possible after the restraint or seclusion of a resident has terminated, staff must meet to process the restraint or seclusion occurrence and document in writing the meeting.

71.16(7) *Multiple occasions of restraint or seclusion.* A resident who requires restraint or seclusion on multiple occasions should be considered for a higher level of care.

71.16(8) *Staff training.* The facility shall provide to the staff training by qualified professionals on physical restraint and seclusion theory and techniques.

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.17(135G) Medication management.

71.17(1) Medications must be ordered by qualified prescribers and administered by qualified personnel. For purposes of this subrule, "qualified personnel" means, at a minimum, a certified medication aide.

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

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

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

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

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

71.17(7) Whenever a resident brings the resident's own prescribed medications into the facility, such medications must not be administered unless identified by a qualified prescriber or pharmacist and ordered by a qualified prescriber. If such medications cannot be administered, they must be packaged, sealed, and returned to an adult member of the resident's immediate family or the legal guardian or securely stored and returned to the resident upon discharge. However, if previously prescribed medication would prove harmful to the resident, the medication may be

withheld from the resident and disposed of in accordance with subrule 71.17(6). There must be documentation by the qualified prescriber in the resident's clinical record citing the dangers or contraindications of the medication being withheld.

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.18(135G) Dietary.

71.18(1) *Nutrition and menu planning.*

- a. Menus shall be planned and followed to meet the nutritional needs of residents.
- b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines.
- c. At least three meals or their equivalent shall be served daily, at regular hours.

71.18(2) *Dietary storage, food preparation, and service.* All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2.

[ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.19(135G) Buildings, furnishings, and equipment.

71.19(1) *Buildings—general requirements.*

- a. All windows shall be supplied with window treatments that are kept clean and in good repair.
- b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously.
- c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state fire code.

71.19(2) *Furnishings and equipment.*

- a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function.
- b. Upholstery materials shall be moisture- and soil-resistant as needed, except on furniture provided by the resident and the property of the resident.

71.19(3) *Dining area and common area.* Every facility shall have a dining area and a common area easily accessible to all residents.

- a. A common area shall be maintained for the use of residents and their visitors and may be used for recreational activities. Common areas shall be suitably furnished.
- b. Dining areas shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining areas and furnishings shall be kept clean and sanitary.

71.19(4) *Bedrooms.*

- a. Each resident shall be provided with a twin-sized or larger bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable.
- 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.
- c. Each resident shall have a bedside table with a drawer to accommodate personal possessions.
- d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered.
- e. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident.
- f. Beds and other furnishings shall not obstruct free passage to and through doorways.
- g. 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 the radiator is covered so as to protect the resident from contact with it or from excessive heat.
- h. There shall be no more than two residents per room.

71.19(5) *Bath and toilet facilities.*

- a. There shall be a minimum of one toilet and one sink for each four residents and one shower for each eight residents. For example, a facility with the maximum of 16 beds shall have four toilets and sinks and two showers.
- b. All sinks shall have paper towel dispensers and an available supply of soap.
- c. Toilet paper shall be readily available to residents.

71.19(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency.

71.19(7) *Water supply.*

- a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request.
- b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license.
- c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department.
- d. Hot and cold running water under pressure shall be available in the facility.
- e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department.

[ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.20(135G) Records.

71.20(1) Resident record. The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. The record shall include:

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

71.20(2) Confidentiality of resident records. The facility shall have policies and procedures providing that each resident shall be assured confidential treatment of all information, including information contained in electronic records.

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

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician, physician assistant, advanced registered nurse practitioner or mental health professional determines the disclosure of the record or a section thereof is contraindicated, in which case the designated information will be redacted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record.

71.20(3) Incident records.

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

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

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

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

71.20(4) Retention of records.

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

481—71.21(135G) Residents' rights in general.

71.21(1) Policies and procedures. Each facility shall ensure that policies and procedures are written and implemented, include all of the following subrules, and govern all areas of service provided to staff and residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually by the facility.

71.21(2) Grievances. Written policies and procedures shall include a method for submission of grievances and recommendations by residents or their responsible parties and a method to ensure a response and disposition by the facility. The written grievance procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

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

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

71.21(3) Informed of rights and responsibilities. Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission.

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

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf or hard of hearing, steps shall be taken to translate the information into the person's native language or sign language. In the case of visually impaired residents, either Braille or a recording shall be provided.

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

71.21(4) Informed of health condition. Each resident or legal guardian shall be fully informed by a physician, physician assistant, advanced registered nurse practitioner or mental health professional of the resident's health and medical condition unless medically contraindicated as documented by a physician, physician assistant, advanced registered nurse practitioner or mental health professional in the resident's record.

71.21(5) Posting of names. The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated to provide to residents another course of redress.

71.21(6) Dignity preserved. Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs.

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

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

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

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

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

71.21(7) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive

personal mail unopened unless prohibited in the treatment plan, which requires explicit approval of the resident or legal guardian.

71.21(8) Visiting hours. Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted.

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

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

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

71.21(9) Privacy. Space shall be provided for residents to receive visitors in comfort and privacy.

71.21(10) Telephone calls. Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone.

71.21(11) Mail. Arrangements shall be made to provide assistance to residents who require help in reading or sending mail.

71.21(12) Permission to leave premises. Residents shall be permitted to leave the facility and environs at reasonable times if permitted in writing by the physician, physician assistant, advanced registered nurse practitioner, mental health professional, or administrator.

71.21(13) Resident activities. Each resident may participate in recreational activities as desired unless contraindicated for reasons documented in the resident's record.

71.21(14) Resident property. Each resident may retain and use personal clothing and possessions, as space permits, and cash and other financial instruments, provided that the use of such items is not otherwise prohibited.

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

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

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

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19; ARC 5711C, IAB 6/16/21, effective 7/21/21]

481—71.22(135G) Health and safety.

71.22(1) Emergency care. Each facility shall have written policies and procedures for emergency medical and psychiatric treatment, which shall include immediate notification by the person in charge to the physician, physician assistant, advanced registered nurse practitioner or mental health professional of any accident, injury or adverse change in the resident's condition. "Immediate" for purposes of this subrule means within 24 hours.

71.22(2) First-aid kit. A first-aid emergency kit shall be available on each floor.

71.22(3) Infection control. Each facility shall have a written and implemented infection control program.

71.22(4) Safe environment. The licensee of a subacute care facility is responsible for the provision and maintenance of a safe environment for residents and personnel. The subacute care facility shall meet the fire and safety rules as promulgated by the state fire marshal or the state fire marshal's designee.

71.22(5) Disaster. The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency.

a. The plan shall be posted.

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

71.22(6) Smoking. A subacute care facility shall follow the smokefree air Act, Iowa Code chapter 142D.

[ARC 1740C, IAB 11/26/14, effective 12/31/14; ARC 4431C, IAB 5/8/19, effective 6/12/19]

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

[Filed ARC 1740C (Notice ARC 1615C, IAB 9/3/14), IAB 11/26/14, effective 12/31/14]

[Filed ARC 2068C (Notice ARC 1996C, IAB 5/27/15), IAB 7/22/15, effective 8/26/15]

[Filed ARC 4431C (Notice ARC 4328C, IAB 3/13/19), IAB 5/8/19, effective 6/12/19]

[Filed ARC 5711C (Notice ARC 5567C, IAB 4/21/21), IAB 6/16/21, effective 7/21/21]

[Filed ARC 5719C (Notice ARC 5560C, IAB 4/21/21), IAB 6/16/21, effective 7/21/21]

[Filed ARC 6974C (Notice ARC 6834C, IAB 1/25/23), IAB 4/5/23, effective 5/10/23]

CHAPTER 72
ECONOMIC FRAUD CONTROL BUREAU

481—72.1(10A) Definitions.

“Client” means any person who has made an application for or is receiving state or federal public assistance from DHS or any other state or federal agency.

“Collateral contact” means a reliable source other than the client who is knowledgeable about information relative to pertinent public assistance case factors.

“Department” means the department of inspections and appeals.

“DHS” means the department of human services.

“Division” means the investigations division of the department.

“EBT” or *“electronic benefit transfer”* means the electronic process that allows a client to authorize transfer of the client’s benefits from a financial account to a retailer to pay for eligible items received. Clients are issued an EBT card similar to a bank ATM or debit card to receive and use their supplemental nutrition assistance program (SNAP) benefits.

“EBT trafficking or misuse” means the use of SNAP benefits for something other than their intended use.

“EFCB” or *“bureau”* means the economic fraud control bureau.

“Intentional program violation” or *“IPV”* means having intentionally made a false or misleading statement; or misrepresented, concealed, or withheld facts; or committed an act that is a violation of the Food Stamp Act, Supplemental Nutrition Assistance Program regulations, or any state rule relating to the use, presentation, transfer, acquisition, receipt or possession of a benefit transfer instrument.

“Pertinent public assistance case factors” means information considered necessary to verify household composition, income, resources or any other potential program violation.

“Program violation” means action that is contrary to the rules of eligibility for any state or federal public assistance program.

“Public assistance” means child care assistance, family investment program, SNAP, medical assistance, state supplementary assistance, refugee cash assistance, or any other state or federal assistance program.

“Referral” means a request to investigate pertinent public assistance case factors for potential program violations and eligibility issues.

“Referring agency” means DHS or any other state or federal agency.

[ARC 3792C, IAB 5/9/18, effective 6/13/18; ARC 6518C, IAB 9/7/22, effective 10/12/22]

481—72.2(10A) Economic fraud control bureau (EFCB). Generally, the EFCB conducts investigations of public assistance fraud in order to maintain integrity and accountability in the administration of public assistance benefits.

[ARC 3792C, IAB 5/9/18, effective 6/13/18; ARC 6518C, IAB 9/7/22, effective 10/12/22]

481—72.3(10A) Types of investigations. The EFCB conducts three types of investigations.

72.3(1) Front-end investigations. The EFCB conducts front-end investigations to determine whether a client has accurately reported the information necessary to become eligible for or to retain public assistance benefits.

72.3(2) Fraud investigations. The EFCB conducts a fraud investigation when the referring agency suspects that a client received public assistance benefits the client was not entitled to receive.

72.3(3) EBT trafficking or misuse. The EFCB conducts an investigation to determine whether a client is responsible for EBT trafficking or misuse.

[ARC 3792C, IAB 5/9/18, effective 6/13/18]

481—72.4(10A) Referrals. DHS shall initiate public assistance eligibility referrals and EBT trafficking or misuse referrals to the division. EBT trafficking or misuse investigations also may be initiated by the division without a referral. Referrals from other referring agencies may be made directly to the division.

[ARC 3792C, IAB 5/9/18, effective 6/13/18]

481—72.5(10A) Investigation procedures.

72.5(1) Client contact. The bureau may, but is not required to, contact the client during the course of an investigation. If the bureau contacts the client and the client does not respond, the client’s nonresponse will be included in the bureau’s investigation findings.

72.5(2) Evidence gathered. The bureau may conduct record reviews and gather evidence to verify a client’s employment, wages, residence, household composition, income versus expenses, or property ownership or other relevant facts.

72.5(3) Subpoenas. The director of the department or the director's designee may issue subpoenas pursuant to Iowa Code section 10A.104 and 481—subrules 1.1(6) to 1.1(9) to obtain information necessary to an investigation. Subpoenas may be personally served by division personnel upon the respondent of the subpoena or the respondent's registered agent, mailed directly to the respondent or the respondent's registered agent via USPS mail, or electronically transmitted directly to the respondent or the respondent's registered agent via facsimile or email. Division personnel shall have the authority to determine the appropriate method by which the respondent is requested to deliver information in response to a subpoena duces tecum.

72.5(4) Collateral contacts. The division may use collateral contacts to collect information pertinent to an investigation or verify information provided by the client.

72.5(5) Cooperation. The division may cooperate with local, state or federal law enforcement agencies in conducting an investigation.

[ARC 3792C, IAB 5/9/18, effective 6/13/18]

481—72.6(10A) EBT trafficking or misuse investigations. In addition to the procedures outlined in rule 481—72.5(10A), the following apply to EBT trafficking or misuse investigations.

72.6(1) Probable cause. Probable cause must be established before an EBT trafficking or misuse investigation may be conducted.

72.6(2) Referrals. Referrals to the division may come from DHS, retailers, law enforcement agencies or the general public. A referral may be initiated following the identification of questionable EBT card transactions through federal or state databases. The bureau may open an investigation without an outside referral.

[ARC 3792C, IAB 5/9/18, effective 6/13/18]

481—72.7(10A) Findings. At the completion of an investigation, the bureau will transmit its findings in writing to the appropriate state or federal agency and make recommendations based on the evidence obtained or provided during the investigation.

72.7(1) Decisions about public assistance eligibility. The appropriate state or federal agency makes all decisions about public assistance eligibility. DHS will report the case action taken and any determination of overpayment, cost avoidance, or intentional program violation to the division.

72.7(2) Testimony and hearings. Staff of the division may be called to testify in administrative and legal proceedings related to an investigation, in addition to conducting EBT intentional program violation hearings.

[ARC 3792C, IAB 5/9/18, effective 6/13/18]

481—72.8(10A) Confidentiality. The EFCB shall maintain confidentiality of investigative case information in accordance with Iowa Code sections 10A.105 and 22.7(5) and any other applicable state or federal law.

[ARC 3792C, IAB 5/9/18, effective 6/13/18]

These rules are intended to implement Iowa Code sections 10A.105 and 10A.401 to 10A.403.

[Filed 9/18/87, Notice 4/22/87—published 10/7/87, effective 11/11/87]

[Filed 1/3/91, Notice 10/31/90—published 1/23/91, effective 2/27/91]

[Filed ARC 3792C (Notice ARC 3669C, IAB 3/14/18), IAB 5/9/18, effective 6/13/18]

[Filed ARC 6518C (Notice ARC 6412C, IAB 7/13/22), IAB 9/7/22, effective 10/12/22]

CHAPTER 73
MEDICAID FRAUD CONTROL UNIT
[Prior to 10/7/87, 481—Chapter 6, “Medicaid Provider Audits”]

481—73.1(10A) Definitions.

“*Abuse*” or “*neglect*” means any act that constitutes abuse or neglect of a patient or resident under applicable state law and includes, but is not limited to, incidents involving physical harm inflicted as a result of an intentional act or negligence, consensual or nonconsensual sexual contact, misappropriation of money or property, theft of medications, or degradation of personal dignity. The victim is a patient or resident receiving health care services in a health care facility that receives Medicaid funds or in a board and care facility at the time of the abuse or neglect.

“*Board and care facility*” means a residential setting where two or more unrelated adults reside and receive one or both of the following:

1. Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.
2. A substantial amount of personal care services that assist residents with activities of daily living, including personal hygiene, dressing, bathing, eating, personal sanitation, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.

“*Department*” means the department of inspections and appeals.

“*Director*” means the director of the department of inspections and appeals.

“*Fraud*” means an intentional deception or misrepresentation made by an individual or entity with the knowledge that the deception or misrepresentation could result in an unauthorized benefit to the individual or entity, or another individual or entity, and includes any act that constitutes fraud under applicable federal or state law, including but not limited to Iowa Code chapters 249A and 685.

“*Medicaid provider*” means:

1. Any individual, agency, institution, or organization enrolled with the department of human services, Iowa Medicaid enterprise, or contracted managed care organizations (MCOs), and approved to provide goods or services to Iowa Medicaid beneficiaries and be paid by Iowa Medicaid enterprise, or contracted MCOs, for the provided goods or services; or
2. Any third party acting on behalf of or under the authority or direction of a Medicaid provider as defined in “1” to prepare or submit necessary documentation to Iowa Medicaid enterprise, or contracted MCOs, in order for the Medicaid provider to receive payment for goods or services.

“*MFCU director*” means the director of the Iowa MFCU.

“*Overpayment*” means any payment greater than that to which a Medicaid provider is entitled.

“*Prosecutorial agency*” includes, but is not limited to, county attorney offices, United States Attorney offices or the Iowa attorney general’s office.

“*Referral*” means any information submitted to the Iowa Medicaid fraud control unit in written or verbal form indicating potential criminal or fraudulent activity which the Iowa MFCU maintains jurisdiction to investigate.

“*Regulatory agency*” includes, but is not limited to, state licensing boards, other divisions or bureaus of the department of inspections and appeals, or other divisions or bureaus of the U.S. Department of Health and Human Services.

“*Respondent*” means the recipient of a subpoena and may be an individual or an organization.

“*State medical assistance program*” or “*Medicaid*” means medical assistance programs per the Code of Federal Regulations, Title 42, Chapter IV, Subchapter C, Parts 430 through 489. Iowa Code chapter 249A authorizes Iowa’s participation in the program. The policies specific to the Medicaid program are in 441—Chapters 73 to 88.

“*Unit*” or “*Iowa MFCU*” or “*MFCU*” means the Iowa Medicaid fraud control unit.

“*Unit personnel*” includes investigators, auditors, and attorneys assigned to the Iowa Medicaid fraud control unit, along with the MFCU director.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.2(10A) Investigative authority.

73.2(1) Pursuant to Iowa Code section 10A.402(5), the unit is responsible for conducting investigations involving the state medical assistance program. These investigations include, but are not limited to, allegations involving:

- a. Fraud within the administration of the Iowa Medicaid program.
- b. Fraud in the provision of medical assistance or activities of Medicaid providers.
- c. Incidents of abuse or neglect.

d. Any aspect of the provision of health care services and activities of Medicaid providers upon the approval of the U.S. Department of Health and Human Services, Office of the Inspector General.

73.2(2) Pursuant to Iowa Code section 10A.403, investigators assigned to the unit shall have the powers and authority of peace officers when acting within the scope of their responsibilities to conduct investigations as specified in Iowa Code section 10A.402(5).

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.3(10A) Referrals.

73.3(1) The MFCU director reviews referrals in order to confirm that the unit has jurisdiction to investigate the allegation(s).

73.3(2) Upon confirming MFCU jurisdiction and taking into consideration numerous factors and referral-specific information, the MFCU director shall determine the disposition of the referral, which may include, but is not limited to, the following:

- a.* Opening a case and assigning the case to unit personnel.
- b.* Referring the allegations to appropriate outside agencies for further review.
- c.* Declining the referral and taking no further action in the matter.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.4(10A) Investigations. Unit personnel investigate referrals opened and assigned as MFCU cases by utilizing all legally authorized means to identify any of the following:

1. Criminal activity resulting in violations of state or federal criminal code.
2. Fraudulent activity resulting in violations of state or federal civil statutes.
3. Financial damages sustained by the Iowa Medicaid program.
4. Victims involved in incidents of abuse or neglect.
5. Perpetrators involved in Medicaid provider fraud schemes or incidents of abuse or neglect.
6. Overpayments received by Medicaid providers as a result of fraudulent or criminal activity.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.5(10A) Access to records. In addition to the authority maintained by investigators with the unit pursuant to Iowa Code section 10A.403, the unit is established as a health oversight agency, as defined by 45 CFR 164.501, exempt from the privacy regulations of the federal Health Insurance Portability and Accountability Act (HIPAA) and authorized to engage in health oversight activities in accordance with 45 CFR 164.512.

73.5(1) Unit personnel shall have the authority to request, review, and retain any medical, clinical, financial, or personnel records maintained by a Medicaid provider in order for unit personnel to investigate allegations of incidents that fall within MFCU's investigative authority as established in rule 481—73.2(10A).

73.5(2) For Medicaid provider fraud investigations, unit personnel shall have access to any records pertaining to Medicaid and non-Medicaid recipients of health care goods and services to verify that:

- a.* Medicaid claims for goods and services have been accurately paid.
- b.* Medicaid recipients actually received the goods and services claimed by the Medicaid provider.
- c.* Medicaid providers have retained supporting documentation to substantiate claims.

73.5(3) For abuse or neglect investigations, unit personnel shall have access to any records pertaining to any Medicaid patients or residents identified during the course of an investigation who are receiving health care services in a health care facility that receives Medicaid funds or in a board and care facility. Unit personnel may obtain access via subpoena or other legal methods to any records pertaining to any non-Medicaid patients or residents identified during the course of an investigation.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.6(10A) Subpoenas. The director or the director's designee may issue subpoenas in connection with MFCU investigations. In addition to the provisions of 481—subrules 1.1(6) to 1.1(9), the following apply.

73.6(1) Unit personnel may serve subpoenas during the course of an open MFCU case investigation. The subpoena must be approved and signed by the director or the director's designee.

73.6(2) Subpoenas may be personally served by unit personnel upon the respondent of the subpoena or the respondent's registered agent, mailed directly to the respondent or the respondent's registered agent via USPS mail, or electronically transmitted directly to the respondent or the respondent's registered agent via facsimile or email.

73.6(3) Unit personnel shall have the authority to determine the appropriate method by which the respondent is requested to deliver information in response to a subpoena duces tecum.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.7(10A) Investigation results.

73.7(1) Investigations resulting in sufficient evidence to support criminal or civil prosecution will be referred to the appropriate prosecutorial agency to be reviewed for a charging decision by the prosecutorial agency.

73.7(2) For investigations that result in identification of potential overpayment made to a Medicaid provider, unit personnel will either attempt to collect such overpayment or refer the matter to an appropriate state agency for collection.

73.7(3) Investigations that result in the identification of potential regulatory violations committed by a Medicaid provider may be referred to the appropriate regulatory agency for administrative review.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

481—73.8(10A) Confidentiality. The unit shall maintain confidentiality of all investigative case information in accordance with Iowa Code sections 22.7(5) and 685.6, 42 CFR 1007.11(f), and any other applicable state or federal law.

[ARC 3793C, IAB 5/9/18, effective 6/13/18]

These rules are intended to implement Iowa Code sections 10A.104(6), 10A.105, 10A.402(5), and 10A.403.

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CHAPTER 74

ECONOMIC ASSISTANCE FRAUD BUREAU

Rescinded **ARC 3875C**, IAB 7/4/18, effective 8/8/18; see 481—Chapter 72

CHAPTER 75

DIVESTITURE UNIT

Rescinded **ARC 6518C**, IAB 9/7/22, effective 10/12/22

CHAPTERS 76 to 89

Reserved

CHAPTER 90
PUBLIC ASSISTANCE DEBT RECOVERY UNIT

[Prior to 4/7/10, see 481—Ch 71]

PREAMBLE

These rules define the department's policies regarding the recovery of public assistance debts. See also Iowa Administrative Code 441—Chapter 11, "Collection of Public Assistance Debts."

481—90.1(10A) Definitions. For the purposes of this chapter, the following definitions apply:

"Active case" means a household that is receiving public assistance.

"Allotment reduction" means an amount withheld from a financial or supplemental nutrition assistance program (SNAP) benefit. More specifically, "grant reduction" refers to the family investment program (FIP) and to refugee cash assistance (RCA), and "benefit reduction" refers to SNAP.

"Debt" means the dollar amount of public assistance, by program, received by or on behalf of a person or provider in excess of that allowed by law, rules, or regulations for any given month(s); or the dollar amount of public assistance unlawfully transferred or obtained in violation of program rules; or the dollar amount of unpaid IowaCare personal financial responsibility obligations.

"Debtor" means any person who has been determined by DHS or by the department to be responsible for the repayment of a particular public assistance debt.

"Department" means the department of inspections and appeals.

"DHS" means the department of human services.

"Economic assistance fraud bureau" means the economic assistance fraud bureau of the department of inspections and appeals.

"FIP" means the family investment program described in 441—Chapters 40 to 46.

"Notice of debt" means a notice that informs the debtor that a debt in a public assistance program has occurred. The notice identifies the debt amount, the dates on which the debt was incurred, the cause of the debt, and the options the debtor has to repay the debt. (See 441—Chapter 11.)

"Offsetting" means the repayment of a debt by setoff of a state warrant or setoff of state income tax refunds or federal tax refunds and federal payments.

"Public assistance" means any program that DHS administers that confers a financial, medical, or SNAP benefit.

"RCA" means refugee cash assistance described in 441—Chapter 60.

"Recovery" means the repayment of a debt by direct cash payment from the debtor, by allotment reduction, by offsetting, or by garnishment of wages or assets.

"Repayment agreement" means an agreement entered into voluntarily between the department and the debtor for the repayment of a debt. Agreements are made on Form 470-0495, Agreement to Pay a Debt, or on a notice of debt listed in 441—subrule 11.2(2). The repayment agreement, whether Form 470-0495 or a notice of debt, tells the amount and program(s) overpaid and gives the debtor a choice of repayment methods. Failure to return the repayment agreement may result in further collection actions.

"SNAP" means the supplemental nutrition assistance program and refers to the benefits provided by the federal program administered through 7 CFR Parts 270 through 283 as set forth in rule 441—65.1(234).

"Title XIX divestiture" means a debt against a person who receives transferred assets from a Medicaid applicant or recipient within five years prior to an application for medical assistance if the applicant is approved for medical assistance (Medicaid) or a transfer impacting the recovery or payment of a medical assistance (Medicaid) debt.

[ARC 8656B, IAB 4/7/10, effective 5/12/10; ARC 6518C, IAB 9/7/22, effective 10/12/22]

481—90.2(10A) Recovery process. The recovery process begins when data is successfully entered on the designated overpayment recovery system and a notice of debt is issued to the debtor. The data specifies which public assistance program(s) is owed a debt.

[ARC 8656B, IAB 4/7/10, effective 5/12/10; ARC 6518C, IAB 9/7/22, effective 10/12/22]

481—90.3(10A) Records. The recovery unit maintains an account for each debt that has occurred for a debtor. The account is filed under the debtor's name and includes information maintained pursuant to rule 441—11.2(217).

[ARC 8656B, IAB 4/7/10, effective 5/12/10]

481—90.4(10A) Review. Rescinded ARC 6518C, IAB 9/7/22, effective 10/12/22.

481—90.5(10A) Debt repayment. A notice of debt or Form 470-0495, Agreement to Pay a Debt, is used to initiate payments of a debt. The minimum rate of payment is determined by each program unless set by a court order or

otherwise negotiated by DHS. All recoveries are transmitted to the DHS cashier. Payments are made directly by cash, check, or money order or through an online payment portal by the debtor except as otherwise provided in this rule. The amount of allotment reduction for a FIP overpayment caused by an agency error shall be different from the amount of allotment reduction for a client error, as determined by DHS.

90.5(1) *Active cases—PROMISE JOBS program.* For payment reduction for the PROMISE JOBS program, the debtor must provide written permission to effectuate a FIP reduction.

90.5(2) *Active cases—FIP, RCA, SNAP.* Allotment reduction shall be used, except that cash payment pursuant to a repayment agreement may be used when the repayment amount exceeds the amount that may be collected by allotment reduction. For SNAP, debt repayment may also be made in accordance with subrule 90.5(3).

90.5(3) *SNAP with electronic benefit balances.* SNAP payments may be made by returning electronic benefits to pay the debt.

[ARC 8656B, IAB 4/7/10, effective 5/12/10; ARC 6518C, IAB 9/7/22, effective 10/12/22]

481—90.6(10A) Further collection action. If complete repayment has not been received by the methods described in rule 481—90.5(10A), further collection action may be taken. This action includes, but is not limited to, the following:

90.6(1) *For all debts.*

- a. Debts of \$5,000 or less, small claims court action.
- b. Debts of more than \$5,000, referral to the attorney general for district court action.
- c. State income tax refund offset in accordance with 441—Chapter 11 and Iowa Code section 8A.504.
- d. The filing of a claim in a debtor's estate or bankruptcy proceedings.
- e. Garnishment of wages or assets.
- f. Setoff of a state warrant.
- g. Distress warrants.
- h. Liens.

90.6(2) *For SNAP debts.* In addition to the above actions, federal offsets (taxes, federal payments) may be used for the collection of SNAP debts in accordance with rule 441—11.5(234).

[ARC 8656B, IAB 4/7/10, effective 5/12/10; ARC 6518C, IAB 9/7/22, effective 10/12/22]

481—90.7(10A) Appeal rights. If a notice of debt or other notice of adverse action is received by the debtor and the debtor wishes to contest the debt, an appeal is submitted to the recovery unit or to DHS. If an appeal is submitted, the recovery process is suspended until conclusion of the appeal process outlined in 481—Chapter 9 and 441—Chapter 7.

[ARC 8656B, IAB 4/7/10, effective 5/12/10; ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—90.8(10A) Data processing systems matches. The recovery unit compares information with other data processing systems to identify the location, resources, or income of a debtor. Part or all of a data processing system is used. The recovery unit uses, but is not limited to using, the data processing systems of the following entities:

1. Social Security Administration,
2. Department of workforce development,
3. Department of revenue,
4. Department of administrative services,
5. Department of transportation (driver's license and motor vehicle registration), and
6. Department of human services.

[ARC 8656B, IAB 4/7/10, effective 5/12/10]

481—90.9(10A) Confidentiality. The confidentiality of records is in accordance with 441—Chapter 9, "Public Records and Fair Information Practices."

[ARC 8656B, IAB 4/7/10, effective 5/12/10]

These rules are intended to implement Iowa Code sections 10A.108 and 10A.402.

[Filed 9/18/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]

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[Filed ARC 3523C (Notice ARC 3407C, IAB 10/25/17), IAB 12/20/17, effective 1/24/18]

[Filed ARC 6518C (Notice ARC 6412C, IAB 7/13/22), IAB 9/7/22, effective 10/12/22]

CHAPTERS 91 to 99
Reserved

GAMES OF SKILL, CHANCE, BINGO
AND RAFFLES

CHAPTER 100

GENERAL PROVISIONS FOR SOCIAL AND CHARITABLE GAMBLING

[Prior to 12/17/86, Revenue Department[730], Ch 91]

[Prior to 11/18/87, Racing and Gaming Division[195]]

[Prior to 6/14/89, Racing and Gaming Division[491], Ch 20]

481—100.1(99B) Definitions. In addition to the definitions found in Iowa Code chapter 99B, and unless specifically defined in 481—Chapters 101 to 106, the following definitions apply to all social and charitable gambling rules.

“*Bingo supplies and equipment*” means a machine, display board, monitor, card, bingo paper, or any other implement or provision used in the conduct of the game of bingo licensed pursuant to Iowa Code chapter 99B.

“*Director*” means the director of the department of inspections and appeals.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 6296C, IAB 4/20/22, effective 5/25/22; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—100.2(99B) Licensure. Gambling shall only occur upon receipt of a license issued by the department. The license shall be prominently displayed at the gambling location.

100.2(1) Types of gambling licenses—qualified organizations. A qualified organization (QO), as defined in Iowa Code section 99B.1(26), may apply for the six following license types, each of which permits the activities listed. A QO with a two-year QO license may also apply for a seventh license type, a very large raffle license.

License type/ Activity type	Two-year QO	One-year QO	180-day QO	90-day QO	14-day QO	Bingo at a fair or festival
Bingo	Three occasions per week; 15 occasions per month	No	No	No	Two occasions	One occasion per day for length of fair or festival
Games of skill and chance	Unlimited carnival-style games	No	No	No	Unlimited carnival-style games	No
Game night	One per calendar month	One per calendar month	One per calendar month	One per calendar month	One per calendar month	No
Very small and small raffles	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	No
Large raffles	One per calendar year	Eight per license period, each conducted in a different county	One per calendar year	One per calendar year	One per calendar year	No
Very large raffles	One per calendar year, requires additional very large raffle license	One per calendar year, requires additional very large raffle license	No	No	No	No
Electronic raffles	One small raffle per day; one large raffle per calendar year	No	No	No	No	No

100.2(2) Other types of gambling licenses. There are four other types of gambling licenses:

- a. One-year license for an amusement concession.
- b. Two-year license for social gambling in beer and liquor establishments.
- c. Two-year license for social gambling in public places.
- d. Annual license for manufacturers and distributors of bingo equipment and supplies or electronic raffle systems.

100.2(3) Political action committees ineligible. Political action committees are not qualified organizations as defined in Iowa Code section 99B.1(26) and are not eligible for gambling licenses.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 6018C, IAB 11/3/21, effective 12/8/21]

481—100.3(99B) License application.

100.3(1) Applications. Applications may be completed online or downloaded by visiting dia.iowa.gov and clicking on the link for “Social and Charitable Gambling.” A paper application may be requested from the Social and Charitable Gambling Unit, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or by calling (515)281-6848.

100.3(2) *Receipt of application.* An application shall be submitted at least 30 days before the beginning date requested.

100.3(3) *Fees.* License fees are not refundable.

100.3(4) *Documentation.* Qualified organizations applying for a charitable gambling license must submit with the application documentation, as described in the application, to prove tax-exempt status.

100.3(5) *Application for incorrect license.* If the applicant does not apply for the appropriate license, the license fee may be applied to the appropriate license within 30 days of notification to the applicant by the department. For example, the applicant applies for a 90-day qualified organization license but wishes to conduct bingo. The fee for the 90-day qualified organization license may be applied to a two-year or 14-day qualified organization license, if the applicant responds within 30 days of notification by the department.

100.3(6) *Incomplete application submitted.* If the applicant submits an incomplete application, the application may be completed and submitted within 30 days of notification to the applicant by the department without forfeiting the fee submitted with the incomplete application.

100.3(7) *Responsible party.* The responsible party identified on the application shall sign the application or submit the online application. The responsible party shall be a person who is authorized to make decisions on behalf of the qualified organization.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 6296C, IAB 4/20/22, effective 5/25/22]

481—100.4(99B) Additional requirements for licensure. In addition to requirements for licensure found in Iowa Code chapter 99B, the department may use the following standards to determine whether to issue a gambling license. These standards do not apply to licensure of manufacturers or distributors of bingo equipment and supplies or electronic raffle equipment.

100.4(1) *Sales tax permit—exemptions.* Qualified organizations shall either possess or have made application for a sales tax permit at the time the license application is submitted. The following gambling activities are exempt from sales and local option taxes:

- a. Gambling activities conducted by county and city governments.
- b. Gambling activities held by the Iowa state fair, Iowa state fair authority, or Iowa state fair foundation (organized under Iowa Code chapter 173), including gambling activities that occur outside of the annual scheduled fair event.
- c. Gambling activities held by a fair (as defined in Iowa Code section 174.1(2)), including gambling activities that occur outside of scheduled fair events.
- d. Raffles held by a licensed qualified organization at a fair as defined in Iowa Code section 99B.1 and pursuant to the requirements specified in Iowa Code section 99B.24.
- e. Raffles, whether or not they are conducted at a fair event, where the proceeds are used to provide educational scholarships by a qualifying organization representing veterans as defined in Iowa Code section 99B.27(1)“b.”

100.4(2) *State tax liabilities.* The applicant must have no outstanding state tax liabilities or, if there are outstanding state tax liabilities, the applicant must have entered into a negotiated repayment plan with the department of revenue and be current in all payments pursuant to the plan. A copy of the repayment plan shall be submitted with the licensure application.

100.4(3) *Revocation—no license issued.*

- a. No one involved in an organization with a gambling license revocation action pending will be granted a license similar to the license revoked.
- b. No one with a gambling license currently under revocation may be issued any gambling license during the period of revocation.
- c. A license will not be issued if there is a current revocation of either a gambling or a retail alcohol license for the location named on the license application.

100.4(4) *Criminal violations.* No applicant shall have been convicted of or pled guilty to a criminal violation of Iowa gambling law.

100.4(5) *Violations of gambling law or Iowa alcoholic beverage control Act.* Violation of gambling law or the Iowa alcoholic beverage control Act (Iowa Code chapter 123) affects whether a gambling license is issued.

- a. The applicant may have no more than two convictions of or guilty pleas to serious or aggravated misdemeanors in the last two years. This includes any combination of serious or aggravated misdemeanors.
- b. No retail alcohol license shall have been suspended within the last 12 months because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act.
- c. No retail alcohol license shall have been revoked because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act.

d. No applicant shall have been convicted of a felony, federal or state, within five years of the date of the application. For felony convictions more than five years prior to the date of the application, citizenship rights must have been restored in order for the application to be considered.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—100.5(99B) Returned checks. If a check intended to pay for any license provided for under Iowa Code chapter 99B is not honored for payment by the bank on which the check is drafted, the department will attempt to redeem the check. The department will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 shall be assessed for each dishonored check. If the department does not receive cash to replace the check, no license will be issued.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.6(99B) Payment systems. Licensees allowing participants to make payment by debit card, as authorized by Iowa Code section 99B.5, shall ensure that payment systems comply with all applicable federal and state laws regarding payment card processing and the protection of personal information. Licensees conducting amusement concessions at a fair and allowing participants to make payment by credit card, as authorized by Iowa Code section 99B.5(2), shall ensure that payment systems comply with all applicable federal and state laws regarding payment card processing and the protection of personal information.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—100.7(99B) Participation—game of skill, game of chance or raffle. No one who conducts a game of skill, game of chance or raffle may participate in the game or raffle. For purposes of this rule, an individual “conducts” a raffle if the individual directly participates in the mechanism of selection of the prize, such as drawing the winning entry. For purposes of this rule, an individual “conducts” a game of skill or game of chance if, for example, the person is a dealer or a croupier or otherwise operates the game.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.8(99B) Posted rules—games other than bingo and raffles. Rules established by the licensee shall be posted on a sign near the front of the playing area or made available electronically at each player’s location. Rules for each game shall be accessible to a player before the player forfeits money to play the game. Rules shall be in large, easily readable print and shall include:

1. The name and mailing address of the licensee;
2. Prices to play;
3. How winners will be determined;
4. Prize(s) or categories of prizes for each game; and

5. Rules established by the licensee for the game. Rules shall define a game and indicate the cost per game. For example, a game might be one opportunity to shoot and make one basket, or three opportunities to shoot and make one basket.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 4732C, IAB 10/23/19, effective 11/27/19]

481—100.9(99B) Posted rules—bingo. Requirements for posted bingo rules are found in rule 481—103.5(99B).

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.10(99B) Rules—raffles. A copy of the rules for a raffle shall be available upon request.

100.10(1) The rules shall include the following:

- a. Methods of awarding a prize;
- b. Prices to play, including discounts; and
- c. Whether a sufficient number of entries must be sold in order for the raffle to occur, or if an alternate prize is offered when sales of entries are insufficient.

100.10(2) A licensed qualified organization may also include in its rules items such as the policy for nonpayment of prizes.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.11(99B) Prizes. Prizes are governed by the following standards.

100.11(1) Amusement concession licensees. The maximum prize limit for games of skill, games of chance and bingo is \$950 in merchandise.

100.11(2) Qualified organizations. The following table provides prize limits for types of gambling conducted by qualified organizations.

Type of gambling	Prize limits
Games of skill and games of chance	\$10,000 in merchandise
Very small raffle	Cumulative value of cash prizes is \$1,000 or less; or purchased merchandise is \$1,000 or less; or donated merchandise is \$5,000 or less
Small raffle	Cumulative value of all cash and prizes is more than \$1,000 but not more than \$10,000
Large raffle	Cumulative value of cash and prizes is more than \$10,000 but not more than \$100,000
Very large raffle	Cumulative value of cash and prizes is more than \$100,000 but not more than \$200,000; or the prize is real property
Single bingo game	Up to \$250 cash or merchandise
Bingo jackpot	\$1,000 cash or merchandise maximum on first jackpot in 24-hour period; \$2,500 cash or merchandise maximum on second jackpot in 24-hour period (see Iowa Code section 99B.21(2) “d”)

100.11(3) Annual game night. An individual shall not spend more than \$250 for entrance fees and wagers. Cash and merchandise may be awarded in an aggregate amount not to exceed \$10,000. No participant shall win more than a total of \$5,000.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.12(99B) Games of chance—prohibited games. Slot machines are unlawful for all licenses issued under Iowa Code chapter 99B. Other than during an annual game night, games in the following list are unlawful:

1. Punchboard,
2. Pushcard,
3. Pull-tab,
4. Craps,
5. Chuck-a-luck,
6. Roulette,
7. Klondike,
8. Blackjack,
9. Baccarat,
10. Equality, or
11. Three-card monte.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.13(99B) Records. In addition to requirements found in Iowa Code section 99B.16, the following requirements apply. Gambling records, maintained separately from all other records, shall be kept current.

100.13(1) Disbursement journal. Records of expenses and dedicated and distributed money are required.

a. A disbursement journal shall include the date of expenditure, the name of the payee, a description of the purpose of payment, the amount of payment, and the method of payment (check, electronic fund transfer, etc.).

b. The disbursement journal shall clearly indicate dedication as the purpose for expenditure of dedicated funds.

100.13(2) Supporting documentation—time requirements. Supporting documentation such as invoices or bills shall be kept for three years.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.14(99B) Reports. A licensed qualified organization shall submit an annual report to the department by January 31 of each year for the prior calendar year period of January 1 through December 31. A report shall be submitted even if no gambling activity occurred during the reporting period. Reports may be completed online by visiting dia.iowa.gov and clicking on the link for “Social and Charitable Gambling.” A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or by telephone (515)281-6848. When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.15(10A,17A,99B) Appeal rights. Any decision of the department may be appealed in accordance with procedures set out in 481—Chapter 10 and Iowa Code chapter 17A. When an appeal is received, the status of the license is governed by the following:

100.15(1) *Denial of untimely or insufficient renewal application.* If a renewal application is not timely or sufficient, a license may not be issued until a final decision is issued and all appeal rights have been exhausted.

100.15(2) *Denial of timely and sufficient renewal application.* If a renewal application is timely and sufficient but is denied by the department, a license remains effective until a final decision is issued and all appeal rights have been exhausted.

100.15(3) *Denial of new application.* If a new application is denied, no license may be issued until a final decision is issued and all appeal rights have been exhausted.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.16(99B) Raffles. The following apply to all raffles, including electronic raffles.

100.16(1) *Timing.* A valid raffle shall only occur during the period of the license. The license must be in effect before promotions for the raffle can begin. The gambling event begins when the first entry is sold and ends when winning numbers are drawn. Calendar raffles and build-up or pyramid raffles are prohibited. If an organization obtains a temporary license to conduct a raffle, the entirety of the raffle, including promotion, sale of entries and drawing, must fall within the time period for the temporary license.

100.16(2) *Raffle entries—sales.* Any price may be charged for a raffle entry, and the price, including any discounts, shall be the same for every purchaser. Raffle entries shall not be purchased by credit card. Raffle entries shall not be sold outside the state of Iowa. Organizations shall comply with United States Postal Service regulations restricting the sale of raffle entries through the mail. The purchaser of a raffle entry shall be provided the location, date, and time of the corresponding raffle drawing at the time of purchase.

100.16(3) *Raffle entries—discount.* A licensee may offer raffle entries for sale at a discounted rate if the discount is applied in a nondiscriminatory manner.

a. Examples. Selling one entry for \$5 or five entries for \$20 is acceptable as long as the discount is available to all purchasers. The amount paid for entries shall not be determined by any variable characteristic, such as height, weight or wingspan.

b. Promotion and availability of discount. The discount must be available to all persons throughout the duration of the raffle and must be posted on all promotional material.

100.16(4) *Winners.* Raffle winners cannot be required to be present to win. The drawing of the winning entry shall be done in a manner that allows the purchasers to observe the drawing.

a. The date by which the prize shall be claimed shall be no fewer than 14 days following the drawing. The licensed qualified organization shall make a reasonable effort to inform the winner of the drawing results during that time frame.

b. If the prize is not claimed, the licensed qualified organization may do one of the following:

(1) Continue to draw until a winner claims the prize. Each drawing must allow the time period specified in paragraph 100.16(4) “a” for claiming the prize.

(2) Donate the unclaimed prize to another qualified organization to be used for an educational, civic, public, charitable, patriotic, or religious use.

100.16(5) *Prizes.* If a prize is merchandise, its value shall be determined by the purchase price paid by the organization or donor. The prize may be a single item or several items.

[ARC 4013C, IAB 9/26/18, effective 10/31/18; ARC 6296C, IAB 4/20/22, effective 5/25/22]

481—100.17(99B) Expenses. Reasonable expenses shall not exceed 40 percent of the net receipts.

100.17(1) *Proof of expense.* No expense item shall be allowed without a proper receipt, paid invoice or canceled check and shall not be paid from an outside source. The burden of proof is on the licensee to show that all expenses were incurred exclusively and directly as a result of the gambling activity. An expense will not be considered reasonable if the amount charged significantly exceeds the prevailing rate or average retail cost of the item or service purchased.

100.17(2) *Allowed expenses.* Expenses allowed within the 40 percent limit are:

- a.* The license fee;
- b.* Rent of building or equipment;
- c.* Taxes (other than state and local sales tax paid on gross receipts);
- d.* Promotion expense;
- e.* Major equipment purchases;
- f.* Overhead expenses;
- g.* Worker compensation; and
- h.* Other expenses incurred exclusively and directly as a result of the gambling activity.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.18(99B) Net receipts. At least 60 percent of net receipts shall be dedicated and distributed to educational, civic, public, charitable, patriotic, or religious uses.

100.18(1) Examples. The following examples illustrate methods to determine net receipts, allowable expenses, and the amount requested to be dedicated and distributed.

a. Example 1. When sales tax is not included in gross receipts, sales tax need not be deducted to arrive at net receipts.

Gross receipts (excluding sales tax)	\$100,000
Amount awarded as prizes	\$20,000
Net receipts	\$80,000
Minimum dedicated and distributed (60% of net receipts)	\$48,000
Maximum expenses (40% of net receipts)	\$32,000

b. Example 2. When sales tax is included in gross receipts, it is deducted to arrive at net receipts.

Gross receipts (including sales tax)	\$107,000
Amount awarded as prizes	\$20,000
Sales tax (7%)	\$7,000
Net receipts	\$80,000
Minimum dedicated and distributed (60% of net receipts)	\$48,000
Maximum expenses (40% of net receipts)	\$32,000

100.18(2) Time for distribution. Net receipts received during the calendar year shall be distributed no later than 30 days following the end of each calendar year unless permission to do otherwise is requested in writing and granted by the department.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.19(99B) Licensure of manufacturers and distributors of bingo equipment and supplies and electronic raffle systems. A manufacturer or distributor of bingo equipment and supplies and electronic raffle systems, as defined in Iowa Code section 99B.32, shall obtain a license prior to conducting business within the State of Iowa.

100.19(1) Duration of license. The license is issued for a one-year period.

100.19(2) Application. To obtain a license, the applicant shall complete an application for a license and submit a \$1,000 fee.

a. The applicant shall comply with the requirements of Iowa Code chapter 99B, administrative rules of the department and other applicable state or federal laws.

b. The department may require detailed information concerning the business structure and operation of the applicant, including but not limited to the following:

- (1) All owners, officers and board members of the business.
- (2) All names under which the applicant will conduct business in the state of Iowa.

100.19(3) Manufacturers and distributors of electronic raffle systems—additional requirements. A manufacturer or distributor of electronic raffle systems must meet the following additional requirements in order to obtain a license.

a. Approval of certifying entity by the department. In addition to licensure, manufacturers and distributors of electronic raffle systems must be certified by an entity approved by the department. “Approved by the department,” for purposes of this subrule, means that the entity has submitted its qualifications in writing to the director for review and has received approval in writing by the director or the director’s designee.

b. Certification—requirements. Entities approved by the department to certify manufacturers and distributors of electronic raffle systems shall ensure all electronic raffle systems meet the requirements of Iowa Code section 99B.25 and rule 481—100.20(99B).

c. Review of contracts—notification. The applicant shall submit to the department for review at the time of application the base contract intended for use with qualified organizations. For the duration of the license, the licensee shall notify the department each time the licensee enters into a contract with a qualified organization by submitting in writing the name of the qualified organization and the duration of the contract. The required notification will allow the department to verify that the qualified organization holds a valid two-year qualified organization license, which permits the conduct of an electronic raffle.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.20(99B) Bingo supplies and equipment. Products sold within this state to a gambling license holder shall meet the following requirements:

100.20(1) Products must be manufactured and sold by an Iowa-licensed manufacturer or distributor.

100.20(2) Products shall be supplies and equipment used in connection with the game of bingo as defined in Iowa Code section 99B.1. The following are noninclusive characteristics of the game of bingo to which products must conform:

a. Cards or playing faces shall have spaces marked in horizontal and vertical rows. Each space shall be designated by number, letter, symbol, or picture, or a combination of numbers, letters, symbols, or pictures.

b. Balls or objects used to select spaces which are to be covered on the card or playing face must bear numbers, letters, symbols, or pictures, or a combination of numbers, letters, symbols, or pictures corresponding to the system used for designating the spaces.

c. The bingo machine must contain a receptacle where objects or balls are placed and from which the objects or balls representing the space to be covered are selected. The selection of the balls or objects by the bingo machine must be by chance and may be either manual or mechanical.

100.20(3) Bingo cards sold in Iowa must have the manufacturer's name imprinted on the cards.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.21(99B) Electronic raffles. In addition to the requirements found in Iowa Code section 99B.25, the following apply to electronic raffles:

100.21(1) An electronic raffle shall be conducted in a fair and honest manner.

100.21(2) All entries shall be included in the drawing.

100.21(3) The sale of raffle entries and the drawing of the winning entry shall take place within the same calendar day.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

481—100.22(99B) Social gambling. Social gambling requirements are located in Iowa Code sections 99B.41 to 99B.45.

[ARC 4013C, IAB 9/26/18, effective 10/31/18]

These rules are intended to implement Iowa Code chapter 99B.

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¹ This history transferred in IAC 9/5/90 from 481—Chapter 103, applicable to “Qualified Organization.”

² This history transferred in IAC 9/5/90 from 481—Chapter 105, applicable to “Annual Game Night.”

CHAPTER 101
AMUSEMENT CONCESSIONS

[Prior to 12/17/86, Revenue Department[730], Ch 92]

[Prior to 11/18/87, Racing and Gaming Division[195]]

[Prior to 6/14/89, Racing and Gaming Division[490], Ch 21]

481—101.1(99B) License requirements. No games shall be conducted until an application is approved and a license is issued by the department.

101.1(1) License required. A gambling license is required for each amusement concession game. The name and description of the game shall be attached to the application.

101.1(2) Licensee. The person conducting an amusement concession, for the purposes of licensure, is the owner of the amusement concession.

101.1(3) Requirements. Application and license requirements are found in 481—Chapter 100.

This rule is intended to implement Iowa Code section 99B.31.

[ARC 4732C, IAB 10/23/19, effective 11/27/19]

481—101.2(99B) Prizes. All prizes shall be merchandise. The value of any prize shall not exceed \$950. Small merchandise prizes may be exchanged for a prize of greater value if the value of the exchanged prize does not exceed \$950. A prize which cannot be obtained shall not be displayed.

This rule is intended to implement Iowa Code section 99B.31.

[ARC 4732C, IAB 10/23/19, effective 11/27/19]

481—101.3(99B) Conducting games. In addition to the requirements found in Iowa Code section 99B.31, the following apply.

101.3(1) Object of each game. The object of each game must be attainable and possible to perform under the rules of the game by an average individual.

101.3(2) No hidden numbers allowed. The possible results shall not be hidden, as in a punchboard or pull-tab which conceals numbers.

101.3(3) Cost. The cost to play each game shall not exceed \$5.

This rule is intended to implement Iowa Code section 99B.31.

[ARC 4732C, IAB 10/23/19, effective 11/27/19]

481—101.4(99B) Posted rules. Requirements for posted rules are found in rule 481—100.8(99B).

This rule is intended to implement Iowa Code section 99B.31.

[ARC 4732C, IAB 10/23/19, effective 11/27/19]

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CHAPTER 102

SOCIAL GAMBLING

[Prior to 12/17/86, Revenue Department[730], Ch 93]

[Prior to 11/18/87, Racing and Gaming Division[195]]

[Prior to 6/14/89, Racing and Gaming Division[490], Ch 22]

[Prior to 9/5/90, see 481—Chapters 102 and 104]

Rescinded **ARC 3190C**, IAB 7/5/17, effective 8/9/17

CHAPTER 103

BINGO

[Prior to 12/17/86, Revenue Department[730], Ch 94]

[Prior to 11/18/87, Racing and Gaming Division[195]]

[Prior to 6/14/89, Racing and Gaming Division[491], Ch 23]

[Prior to 9/5/90, this chapter was entitled "Qualified Organization"]

481—103.1(99B) Definitions. In addition to definitions found in Iowa Code chapter 99B and in rule 481—100.1(99B), the following definitions apply to all qualified organizations where bingo is played.

“*Cash*” means any legal tender of the United States.

“*Category*” means the name given to a particular type of playing face to distinguish one from another.

“*Limited license*” means a 14-day license issued only to a qualified organization. There are no limits on the number of games played or occasions held, except that only two bingo occasions may be held during the period of 14 days, with no limit on the number of bingo games or the number of hours played during each designated bingo day.

“*Playing face*” means the grid on which a player marks numbers and letters called as the game progresses.

[ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.2(99B) License.

103.2(1) License required—exception. A license is required in order to conduct a bingo occasion unless all of the following requirements are met:

- a. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.
- b. Participants in the bingo occasion are not charged to play.
- c. Any prize awarded at the bingo occasion is donated.
- d. The bingo occasion is conducted as an activity and not for fundraising purposes.

103.2(2) Location. Bingo occasions are restricted to the location for which application is made by the qualified organization and approved by the department. For good cause, a license may be transferred to a different location only after written notice by the licensee and approval by the department. “Good cause,” for purposes of this subrule, may include flood, fire or other natural disasters; sale of the building; or nonrenewal of lease.

103.2(3) Application. Before any organization may conduct bingo, a license application must be approved by the department. Application and license requirements are found in rules 481—100.3(99B), 481—100.4(99B), and 481—100.5(99B).

103.2(4) Examples. The following are examples of circumstances affecting whether a license is granted.

a. Qualified organization ABC applies for and is issued a two-year qualified organization license to conduct bingo at 1002 West 2nd Avenue in Jones Town, Iowa. The license is effective from October 1, 2017, to September 30, 2019. On November 15, 2017, qualified organization EFG applies for a two-year qualified organization license for the same location. A license may be issued to organization EFG for the same location during the same period to conduct any games of chance, games of skill or raffles. Organization EFG shall not conduct bingo at the location.

b. Hometown Community School applies for and is issued a two-year qualified organization license to conduct games of skill, games of chance and raffles at the grade school building. The license is effective from September 1, 2017, to August 31, 2019. During the time that the Hometown Community School license is in effect, the school-sponsored pep club applies for a 14-day limited license to conduct games of skill at the grade school building. The school-sponsored pep club may be issued a limited license for the same location during the same time. Under this example, the school-sponsored pep club would not be required to obtain a separate license, because school-affiliated organizations may operate separate events under a school’s two-year license.

[ARC 4014C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—103.3(99B) Bingo occasion. A qualified organization may conduct only 3 bingo occasions per week, but not more than 15 occasions per month, under a two-year qualified organization license. A week starts on Sunday and ends on Saturday. At the end of each occasion, the person conducting the games shall announce both the gross receipts and the use to which the net receipts will be dedicated and distributed.

[ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.4(99B) Game of bingo. Each game shall meet all of the requirements of the definition of “bingo” in Iowa Code section 99B.1(4) to be a legal game of bingo. Games ordinarily considered bingo may be played.

103.4(1) A fair and legal game shall meet at least all of the following criteria:

- a. Concealed numbers on a playing face are not allowed.
- b. The game requires an announcer or caller.
- c. Numbers shall be announced so all players can hear clearly.

- d. A free space or spaces are allowed.
- e. The game proceeds as the caller selects and announces the numbers. If a caller miscalls a number or misreads a ball, only the number on the ball may be used. Miscalled numbers are invalid.
- f. Rules established by the licensee may require that a player have the last number called for a bingo. If not posted in the rules established by the licensee, the player is not required to have the last number called.
- g. Each game ends when it is determined that a player has covered the announced pattern of spaces. The caller or another worker shall verify the numbers on winning cards. The caller checks for additional bingos and officially closes the game.
- h. Wild numbers are allowed, but must be chosen using a random selection method.

103.4(2) Any player may request that all numbers drawn and all numbers not drawn be verified when the winning card or cards are verified. Numbers shall be verified in the presence of the member in charge and the caller. The player who requested verification may observe the count.

103.4(3) The cost to play each game shall not exceed \$5. Cards or games may be sold only within the premises of the bingo occasion. The cost for each packet, playing face, or tear sheet shall be the same for each participant, i.e., the cost for an opportunity to play shall be equal. Players may pay for games with cash, personal check, money order, bank check, cashier's check, electronic check, or debit card.

- a. All cards or games shall be assigned a price.
- b. The price shall be posted. Cards may be sold only for the posted price.
- c. Free games shall not be given. Free games include gift cards redeemable for games. This paragraph does not prohibit giving free concession items such as food, beverages or daubers.

103.4(4) Cards for each category shall be distinctly marked. Each shall be easy to distinguish from all others.

- a. Bingo games or cards may be printed on only one side.
- b. In each game, the bingo operator must ensure that duplicate playing faces are not sold.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.5(99B) State rules and rules established by the licensee. Iowa administrative rules and rules established by the licensee must be readily available to every bingo player.

103.5(1) A copy of these rules, 481—Chapter 103, "Bingo," shall be maintained at every bingo location during every bingo occasion. Bingo players who request it shall have the opportunity to read the administrative rules.

103.5(2) Rules established by the licensee shall be posted on a sign near the front of the playing area.

- a. Rules shall be in large, easily readable print and shall include:
 - (1) The name and mailing address of the licensee;
 - (2) Prices to play; and
 - (3) Rules established by the licensee for the game.
- b. Rules established by the licensee shall include how to indicate "bingo" to halt the game, how to collect a prize, and how the licensee will verify winners' names and addresses.
- c. Rules established by the licensee may include rules related to reserved seating and age restrictions for children to play.

103.5(3) The following information shall be correctly posted before the beginning of each bingo occasion and shall not be changed after the bingo occasion begins:

- a. Description of each game to be played;
- b. Price of each game;
- c. Prize for each game or method for determining the prize for each game; and
- d. Jackpot rules, if any.

EXAMPLE: Single bingo \$1 per game, \$50 payout.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.6(99B) Prizes. Cash or merchandise prizes awarded for each game shall not exceed \$250 in value. Jackpot games are excepted and are governed by standards in subrule 103.6(5). The exact amount of the prize shall be announced before the beginning of each game.

103.6(1) Prizes shall be recorded each occasion on the daily bingo summary (see Table A¹) as they are paid by listing the number of the game; the pattern required to win; the type, color, and series of cards used in the game; and the amount of the prize. The name, address, and social security number of each jackpot winner is required.

NOTE: Prizes of more than \$600 require the deduction of 5 percent withholding taxes. See paragraph 103.6(5) "g."

103.6(2) Prizes awarded in games with more than one winner shall be shared equally. It is permissible to round up or down, provided doing so does not exceed the maximum payout for that particular game.

Examples of prizes awarded in games with more than one winner:

1. Two winners with a total of three bingos: Player 1 has two bingos in separate squares, and Player 2 has one bingo in one square. Player 1 receives 2/3 of the prize, and Player 2 receives 1/3 of the prize.

2. Multiple winners equally splitting a prize with rounding to the nearest dollar: Six players all win the single \$250 prize. The appropriate payout is \$41.66 each, but rounding to the nearest dollar (\$42) for each winner would result in a payout of \$252, in violation of the maximum payout for a nonjackpot bingo game.

103.6(3) An animal shall not be awarded as a prize for persons participating in a game or fair event.

103.6(4) A player shall not be required to return cash or a merchandise prize won in one game in order to play a subsequent game.

103.6(5) No more than two jackpot games may be played during a 24-hour period as follows:

- a. An organization is limited to two jackpot games.
- b. The jackpot starting prize shall not exceed \$500 in cash or actual retail value of merchandise.
- c. The jackpot prize shall not increase more than \$200 after each jackpot game. The maximum prize shall not be greater than \$1,000 for the first jackpot game and shall not be greater than \$2,500 for the second jackpot game.
- d. The jackpot prize shall not decrease until it is won.
- e. If a jackpot is not won in the specified number of calls, the game reverts to a regular game with a prize of \$250 or less.
- f. Each jackpot game shall begin again at no more than \$500.
- g. Cash prizes over \$600 require the deduction of 5 percent withholding taxes. This tax is to be withheld by the organization conducting the game. The amount deducted shall be remitted to the Iowa department of revenue on behalf of the prize winner.

This rule is intended to implement Iowa Code sections 99B.21, 422.16 and 717D.2.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

¹ See forms at end of this chapter.

481—103.7(99B) Workers.

103.7(1) Each organization must have a responsible party listed on the application. The responsible party must be an active member of the organization and should be familiar with the requirements of the Iowa law and be aware of the bingo activities of the organization.

103.7(2) Volunteers must be actively participating members of the licensed organization or must participate in an organization to which money will be dedicated.

103.7(3) Paid workers shall not play during a bingo occasion in which they work. Persons conducting bingo shall not play during any bingo occasion conducted by the qualified organization for which they work. A person conducting bingo includes: persons overseeing the bingo games, persons controlling and accounting for the bingo occasion's net receipts, persons directing the work of bingo workers, and any persons having management or oversight responsibilities.

103.7(4) A person receiving rent for a bingo location, either directly or indirectly, shall not be involved in, participate in, or be associated with the operation of bingo games.

103.7(5) Anyone who sells bingo equipment or supplies to a bingo licensee shall not work for that licensee during a bingo occasion.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.8(99B) Expenses. Expenses incurred exclusively and directly as a result of bingo shall not exceed 40 percent of net receipts. Reasonable expenses within the 40 percent limit are:

1. The license fee;
2. Withholding, unemployment or social security taxes;
3. Promotion cost;
4. Equipment and supply purchases;
5. Rent for bingo occasion;
6. Utilities for bingo occasion; and
7. Wages paid for bingo workers.

Expense items are allowed only when receipts or a paid invoice and canceled check are available for review by the department.

103.8(1) When the annual gross exceeds \$10,000, expenses shall be paid from a bingo checking account. The licensee shall prove that all expenses were incurred exclusively and directly as a result of bingo.

103.8(2) Expenses are not reasonable if the amount charged substantially exceeds the current rate or average retail cost of items or services purchased.

[ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.9(99B) Location. Bingo occasions may be conducted on premises either owned or leased by the qualified organization.

1. All buildings in which bingo occasions are conducted must meet state or local standards for occupancy and safety.

2. The name of the licensee shall be posted on the sign of each building or location where bingo occasions are held.

3. A name which is closely associated with the licensee and which clearly identifies the lawful uses of the proceeds may also be used. Generic-type names, such as “Nelson Street Bingo” or “Uncle Bob’s Bingo,” shall not be used.

4. The rent shall not be related to nor be a percentage of the receipts.

5. The licensee may terminate any lease or rental agreement without paying a penalty or forfeiting money or a deposit. Damage deposit money is excepted.

6. The lessor of the building shall not participate in conducting bingo.

7. During a bingo occasion, the lessor shall not sell any beverage, food or any other merchandise in the room in which bingo is played.

8. Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—103.10(10A,99B) Concessions. Rescinded IAB 7/24/02, effective 7/5/02.

481—103.11(10A,725) Advertising. An organization may advertise bingo or any gambling activities legal under Iowa law.

This rule is intended to implement Iowa Code section 725.12.

481—103.12(10A,99B) Equipment. Equipment shall be used as it is intended by the manufacturer.

103.12(1) A licensed organization shall conduct bingo games only with equipment it owns or borrows from another qualified organization. Use of equipment for which the licensed organization pays consideration directly or indirectly under the guise of a service charge is prohibited. No licensed organization may loan or borrow equipment, goods, or services in exchange for supplies. Equipment may not be rented or leased. This does not prohibit the purchase of equipment on contract.

No one who sells bingo equipment or supplies may participate in conducting bingo directly or indirectly.

103.12(2) Equipment used to conduct bingo must be maintained in good repair and sound working condition. No equipment shall be altered to create an advantage for anyone. Play shall progress so all players have an equal opportunity to win. Balls drawn must be the same size, shape, weight and balance. The container in which balls are held shall promote fair play. Balls shall tumble and circulate freely within the container during bingo games. All 75 balls must be in the container before each game begins. Verification of all 75 balls is required when requested by a participant.

[ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.13(99B) Records. Each qualified organization which conducts bingo occasions shall record specific information. Records shall be current so the department may review them at any time. The following records are required for each bingo occasion:

103.13(1) The daily bingo summary (see Table A¹) shall be a record of the following:

a. The name of each worker;

b. The social security number of paid workers;

c. Compensation of any worker;

d. The number of players present; and

e. A list of all games played including a description of each game, the cost to play each game, the number and category of bingo cards used for each game and the prize or prizes paid in each game. The summary shall also include the totals for the occasion of the gross receipts, prizes awarded and the jackpot prize amounts.

The daily bingo summary must be signed by a caller and another member of the organization.

Records shall be maintained for three years for review by the department.

103.13(2) An organization having \$100,000 or more in bingo gross receipts per year must also comply with the following for each bingo occasion:

a. Daily Bingo Summary—CASH CONTROL (Table B¹)

This form must show:

- (1) Gross receipts, adjustments, the prize payouts and net receipts for each game played;
- (2) The total net receipts, total cash counted, the overage or shortage, and the total amount to be deposited for the occasion; and
- (3) Shall be signed and dated by two members of the organization.

This form should correspond with the Daily Bingo Inventory Usage Form. See suggested form in Table B¹.

b. Daily Bingo Inventory Usage (Table C). This form must show:

- (1) For each loose sheet of bingo paper sold, the color, paper size, game(s) played, daily count start, purchases, voids, number of sheets sold, and daily count end.
- (2) If packets are purchased preassembled, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end.
- (3) If packets are assembled by the organization, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end. Also, each loose sheet of bingo paper used to assemble the packet must be accounted for by decreasing the applicable loose sheet bingo paper inventory under subparagraph 103.13(2)“b”(1) at the time of assembly.

c. Records shall be maintained for three years for review by the department.

103.13(3) Records of expenses and dedicated and distributed money are required.

a. The following information shall be retained for all payments:

- (1) Date of payment.
- (2) Payee.
- (3) Amount of payment.
- (4) Purpose of payment.

b. For checks, the purpose of payment shall be recorded on the memo line of the check.

103.13(4) An employee record of people compensated for work (Table F¹) at a bingo occasion shall be maintained which shows:

- a.* The name, address, social security number;
- b.* Dates of employment;
- c.* Times and number of hours worked;
- d.* Wages paid;
- e.* Amounts withheld; and
- f.* Check number.

The records must specifically identify for which bingo occasion an employee was compensated. Compensation is anything of value given to a person in exchange for services rendered in connection with a gambling occasion. Table F¹ is an example.

Records shall be maintained for three years for review by the department.

103.13(5) An inventory list of the number of playing faces owned by the licensed organization is required.

The inventory shall be updated each month.

Records shall be maintained for three years for review by the department.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

¹ See forms at end of this chapter.

481—103.14(99B) Bingo checking account. A qualified organization whose bingo occasions exceed \$10,000 in annual gross receipts shall maintain a separate bingo checking account. The checking account shall be established within one day of attaining \$10,000.

103.14(1) Bingo receipts, less the amount awarded as cash prizes, shall be deposited in the bingo checking account on the same or the next business day after the occasion. Other funds shall not be deposited in the bingo account. Interest earned on deposits in a bingo checking or savings account shall be treated the same as proceeds of bingo occasions.

Exception:

Limited funds of the organization may be deposited to pay initial or unexpected emergency expenses. The amount of nonbingo funds deposited in the bingo account shall not exceed \$7,500. Records shall be kept which identify this money.

103.14(2) Payments shall be paid from the bingo account in accordance with the requirements of Iowa Code section 99B.21. Wages shall not be paid by cash.

103.14(3) The bingo account shall be used for both of the following events:

a. One qualified organization satisfies the dedication requirement by donating funds to another organization over which the licensed organization has no control; or

b. A qualified organization licensee is satisfying the dedication requirement by spending funds to further the charitable, educational, religious, public, patriotic or civic purposes of its own organization.

103.14(4) A qualified organization licensee shall not transfer funds from the bingo checking account to any other checking account of the organization.

A flowchart for a bingo checking account is shown on Table H¹.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

¹ See forms at end of this chapter.

481—103.15(10A,99B) Bingo savings account and bingo change fund.

103.15(1) *Bingo savings account.* When an organization places bingo receipts in any savings account, bingo funds shall be separate and recognizable from all other funds of the same organization. All funds in a bingo savings account shall be transferred into that account from a bingo checking account. Funds shall be transferred back to the bingo checking account before they are spent.

103.15(2) *Bingo change fund.* Moneys used as a change fund, if necessary, should be provided by the organization for each bingo occasion. The change fund can increase or decrease as appropriate for the anticipated participation in the bingo occasion. The balance of the change fund at the end of the fiscal year must be dedicated by July 30 and reported as required by rule 481—103.16(10A,99B). The fiscal year begins July 1 and ends June 30 of the following year. The change fund should be maintained in a secure manner.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.16(99B) Annual gambling reports.

103.16(1) Each organization which conducts bingo shall submit a report to the department by January 31 of each year for the prior calendar year period of January 1 through December 31. When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day.

103.16(2) Annual gambling reports may be completed online by visiting dia.iowa.gov and clicking the link for “Social and Charitable Gambling.” A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or by telephone (515)281-6848.

103.16(3) The department may require a qualified organization to submit records of specific occasions with the annual report.

103.16(4) All transactions of any school group or parent support group using a schoolwide license shall be on the annual report.

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.17(10A,99B) Inspections and audits. Licensed organizations may be inspected or audited by a representative of the department at any reasonable time.

[ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.18(99B) Electronic bingo.

103.18(1) A qualified organization may lease electronic bingo equipment from a manufacturer or distributor licensed by the department. For purposes of this rule, “electronic bingo equipment” means an electronic device that assists an individual with a disability in the use of a bingo card during a bingo game.

103.18(2) Electronic bingo equipment shall be used only by disabled individuals.

a. For purposes of this rule, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

b. “Disability” does not include any of the following:

(1) Homosexuality or bisexuality.

(2) Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(3) Compulsive gambling, kleptomania, or pyromania.

(4) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

103.18(3) Electronic bingo devices shall be used in the following manner:

a. Each player may input into the device each number called or the device may automatically daub each number as the number is called.

b. Each player must notify the game operator or caller of the winning pattern of bingo by means other than use of the electronic bingo device.

c. Each player is limited to playing a maximum of 54 card faces per game.

d. The cost per bingo game must be the same as it would be if the individual were to purchase the same amount of paper or hard cards.

e. Players of electronic bingo shall not be required to play more cards than they would be required to play if using paper or hard cards.

f. Each electronic bingo device shall produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards loaded, cost of electronic bingo cards loaded, and the date and time of the transaction. Images of cards or faces stored in an electronic bingo device must be exact duplicates of the printed faces if the faces are printed.

g. The department may examine and inspect any electronic bingo device and related system. Such examination and inspection shall include immediate access to the electronic bingo device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing.

h. All electronic bingo devices must be loaded and enabled for play on the premises where the game will be played.

i. All electronic bingo devices shall be rented or otherwise provided to a player only by a qualified organization, and no part of the proceeds of the rental of such devices shall be paid to a landlord or a landlord's employee or agent or member of the landlord's immediate family.

j. If a player's call of a bingo is disputed by another player, or if a department representative makes a request, one or more cards stored on an electronic bingo device shall be printed by the organization.

k. Players may exchange a defective electronic bingo device for another electronic bingo device provided a disinterested player verifies that the device is not functioning.

This rule is intended to implement Iowa Code section 99B.21(3) "b."

[ARC 1929C, IAB 4/1/15, effective 5/6/15; ARC 4014C, IAB 9/26/18, effective 10/31/18]

481—103.19(99B) Bingo at a fair or community festival. Bingo may lawfully be conducted at a fair or a community festival if the requirements of Iowa Code section 99B.22 are met. A qualified organization that has received permission from the sponsor of the fair or community festival to conduct bingo shall be licensed under Iowa Code section 99B.12.

[ARC 4014C, IAB 9/26/18, effective 10/31/18]

These rules are intended to implement Iowa Code sections 99B.1 to 99B.7, 99B.11 to 99B.16, 99B.21 to 99B.23, and 99B.32.

[Filed 12/12/76, Notice 10/6/76—published 12/29/76, effective 2/2/77]

[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

[Filed 11/21/80, Notice 10/15/80—published 12/10/80, effective 1/14/81]

[Filed 3/13/81, Notice 2/4/81—published 4/1/81, effective 5/6/81]

[Filed 8/28/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]

[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed emergency 6/29/84—published 7/18/84, effective 7/1/84]

[Filed 8/24/84, Notice 7/18/84—published 9/12/84, effective 10/17/84]

[Filed 1/25/85, Notice 12/19/84—published 2/13/85, effective 3/20/85]

[Filed 9/20/85, Notice 7/17/85—published 10/9/85, effective 11/13/85]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 4/24/87, Notice 3/11/87—published 5/20/87, effective 6/24/87]

[Filed 10/23/87, Notice 9/9/87—published 11/18/87, effective 12/23/87]

[Filed emergency 5/26/89—published 6/14/89, effective 7/1/89]

[Filed 8/15/90, Notice 4/18/90—published 9/5/90, effective 10/10/90]
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[Filed 4/25/91, Notice 3/20/91—published 5/15/91, effective 6/19/91]
[Filed emergency 7/5/02—published 7/24/02, effective 7/5/02]
[Filed 8/30/02, Notice 7/24/02—published 9/18/02, effective 10/23/02]
[Filed 11/19/03, Notice 10/15/03—published 12/10/03, effective 1/14/04]
[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
[Filed ARC 1929C (Notice ARC 1858C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]
[Filed ARC 4014C (Notice ARC 3920C, IAB 8/1/18), IAB 9/26/18, effective 10/31/18]
[Filed ARC 6976C (Notice ARC 6879C, IAB 2/8/23), IAB 4/5/23, effective 5/10/23]

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS

DATE: _____

TABLE A

DAILY BINGO SUMMARY

Daily Cash Control Form users enter total only

[illegible]

COMPENSATED WORKERS					
Name	S.S. #	Rate of Pay	# Hours	Total Paid	Check #
Total Compensation				\$	

DAILY RECAP

* Gross Receipts \$ _____

** Less Cash Prizes	\$

Total Deposit \$

SIGNATURES: _____ Date _____
 _____ Date _____

Daily Bingo Summary—CASH CONTROL

Bingo Manager: _____
(Name) (Date)

Iowa Department of Inspections and Appeals

Social and Charitable Gambling Program

Daily Bingo Summary—INVENTORY USAGE

TABLE C

Licensee's Name:
Qualified Organization License #:
Address:
City, State, ZIP:

Today's Date: _____

Loose Sheet Bingo Paper Inventory								
Color	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids/ Packet Assembly	(-) # Sold	(+/- Over/ Under)	Daily Count End

Preassembled Bingo Packets								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

Bingo Packets Assembled In-House								
When you assemble these packets, you must also decrease the applicable loose sheet bingo paper inventory above using the column Voids/ Packet Assembly.								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Assembled	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

TABLE D
HARD CARD TICKET LOG
INVENTORY

Rescinded IAB 4/1/15, effective 5/6/15

TABLE E
DISBURSEMENTS JOURNAL

Rescinded IAB 9/26/18, effective 10/31/18

EMPLOYEE RECORD
OF
COMPENSATED PEOPLE
TABLE F

Name _____
Address _____
Social Security Number _____
Times and number of hours worked _____
Wage per hour _____
Total wages paid, taxes withheld, and check # _____

Occasion Date _____
Number of players at this occasion _____
LICENSEE _____
SUBMITTED BY _____

EMPLOYEE RECORD
OF
COMPENSATED PEOPLE
TABLE F

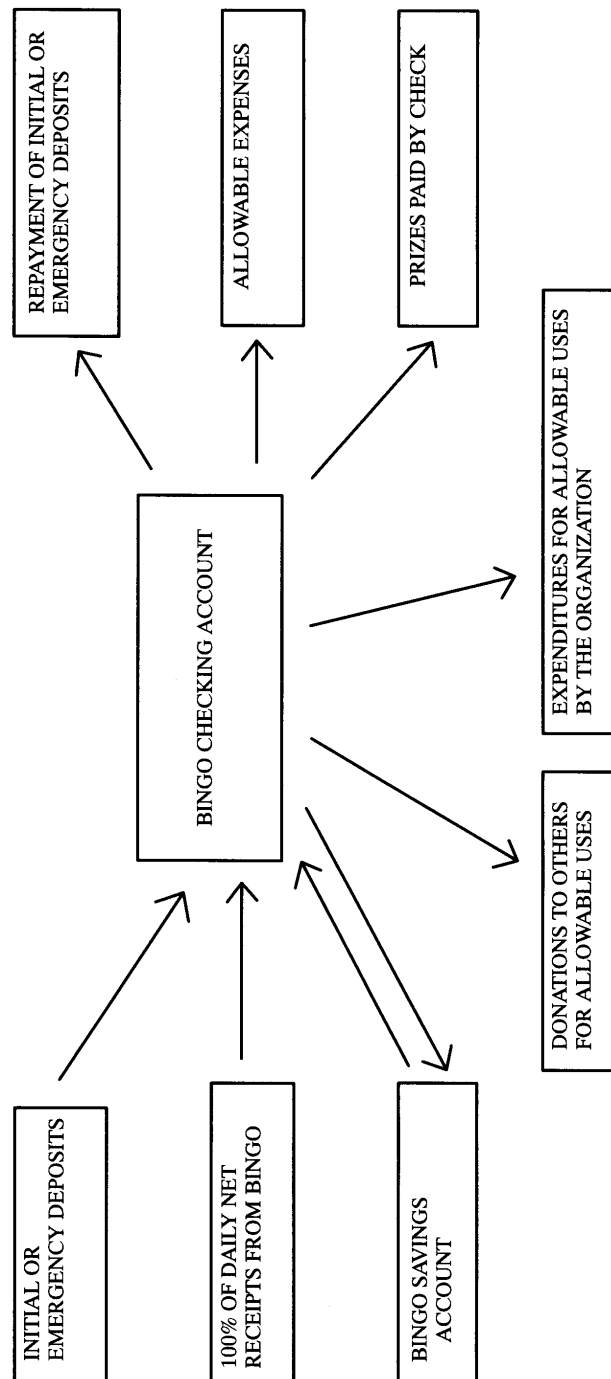
Name _____
Address _____
Social Security Number _____
Times and number of hours worked _____
Wage per hour _____
Total wages paid, taxes withheld, and check # _____

Occasion Date _____
Number of players at this occasion _____
LICENSEE _____
SUBMITTED BY _____

TABLE G
CHECK INFORMATION REQUIREMENTS
Rescinded IAB 9/26/18, effective 10/31/18

TABLE H

BINGO BANK ACCOUNT FLOWCHART



CHAPTER 104
GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES

481—104.1(10A,99B) Definitions. Definitions in rule 481—100.1(10A,99B) and 481—105.1 (10A,99B) are incorporated by reference in this chapter.

The following definitions apply to the possession and use of amusement devices.

“Amusement device” means an electrical or mechanical device possessed and used in accordance with Iowa Code chapter 99B. An amusement device is not a game of skill or chance as defined in Iowa Code section 99B.1, a gambling device, or a device that plays poker, blackjack, or keno. Roulette wheels, slot machines, and other devices specified in Iowa Code section 725.9 as gambling devices are not amusement devices.

“Gambling device” means a device possessed or used or designed to be used for gambling and includes, but is not limited to, roulette wheels, klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pachislo skill-stop machine or any other similar machine or device, push cards, jar tickets, pull-tabs, and video machines or other devices that do not comply with Iowa Code chapter 99B.

“Knock-off switch” means a mechanism or other method that releases free games or credits accumulated toward the award of merchandise.

“Prize” means a ticket(s) or token(s) that is dispensed by an amusement device as an award for use and that is worth up to \$50 in merchandise.

“Progressive games” means games in which the value of the prizes increases an incremental amount with each game.

“Slot machine” means a mechanical, electronic, or video gambling device into which a player deposits coins, tokens or currency and from which certain credits, tickets, tokens or coins are paid out when a particular, random configuration of symbols appears on the reels, simulated reels, or screen of the device. The slot machine may have a lever, buttons, or other means to activate or stop the play.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—104.2(99B) Device restrictions. An amusement device, except for an amusement device which shall be registered pursuant to Iowa Code section 99B.53, may be owned, possessed, or offered for use by any person at any location. All amusement devices shall comply with all of the following:

1. The device must be electrical, which includes both electronic and video, or mechanical, or a combination of both.
2. The device shall not be designed or adapted to issue or pay coins or currency.
3. The device may be designed or adapted to award free games without additional consideration.
4. The device may be designed or adapted to award merchandise or tickets or tokens redeemable for merchandise not to exceed a retail value of more than \$50 per play or game.
5. The device may be designed or adapted to issue tickets or tokens, but not coins or currency. However, the device shall not be designed or adapted to issue tickets or tokens that may be used to play any device or game.
6. The device shall not have a “knock-off” switch to release either free games or credits awarded by the device. However, credits may be released by the insertion of coins, currency, or tokens to activate a new game. Free games may only be utilized for playing the device and may not be released in any other manner.
7. The device shall not be capable of being altered to enable a person using the device to increase or decrease the chances to win a game or other prize by paying more than is ordinarily required to play the game.
8. The device must be designed or adapted to accept only coins, currency, or tokens to play the game. However, the device shall not be designed or adapted to accept tokens that have been awarded as a prize.
9. The device must be registered if it meets the registration requirements set forth in Iowa Code section 99B.53 and rule 481—104.5(99B).

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—104.3(99B) Prohibited games/devices. The following games or devices are not permitted:

1. Devices that pay coins or currency.
2. Gambling games permitted in Iowa Code chapter 99F, such as slot machines and roulette wheels, or any similar device.
3. Any machine that does not conform to the requirements in these rules or Iowa Code chapter 99B.
4. Any machine designed or resembling a machine which is normally used for casino-type gambling.
5. Amusement devices designed or adapted to facilitate gambling.
6. Progressive games.

NOTE: This rule does not prohibit the possession of antique slot machines when possessed pursuant to Iowa Code chapter 725.

[ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—104.4(99B) Prizes. Prizes may be awarded for use of an amusement device.

104.4(1) Merchandise with a retail value of no more than \$50 per transaction may be awarded.

104.4(2) One or more free games may be awarded by the device.

104.4(3) If the device is designed or adapted to issue tickets or tokens, the following apply:

a. Tickets or tokens awarded by an amusement device shall not be used to purchase or play a game.

b. Tickets or tokens shall not be redeemed for coins or currency.

c. Tickets or tokens may be redeemed for merchandise if the retail value of the merchandise does not exceed \$50 per transaction.

d. Tickets or tokens may be accumulated to purchase merchandise not greater than \$50 per transaction in retail value.

e. Tickets or tokens may be redeemed for food and beverage if the combined value of the food and beverage does not exceed \$50 per transaction.

f. If the entire amount of the ticket or token issued by the amusement device is not redeemed for merchandise, the balance shall not be redeemed for cash.

g. Tickets or tokens shall only be redeemed on the premises where the amusement device is located and only for merchandise sold in the normal course of business on the premises.

104.4(4) Merchandise prizes shall not be repurchased.

[ARC 1930C, IAB 4/1/15, effective 5/6/15]

481—104.5(99B) Registration. An amusement device must be registered if it meets the registration requirements set forth in Iowa Code section 99B.53. The outcome of the game is not primarily determined by the skill or knowledge of the operator, and registration is required if chance plays a role equal to or greater than the players' skill or knowledge in determining the outcome of the game. Additional licenses or registrations under Iowa Code chapter 99B are not required.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—104.6(99B) Violations. Failure to comply with the limitations imposed on the use and possession of amusement devices in Iowa Code chapter 99B constitutes unlawful gambling, which may result in the following consequences. Additional consequences apply for registered amusement devices pursuant to 481—Chapter 105 and Iowa Code chapter 99B.

1. Conviction for illegal gambling under the provisions of Iowa Code chapter 725.

2. Forfeiture of property under the provisions of Iowa Code chapter 809.

[ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—104.7(99B,17A) Declaratory orders. In addition to the requirements for declaratory orders found in 481—Chapter 3, parties seeking a declaratory order shall file with their petition a written evaluation of the game by an independent gaming laboratory approved by the department.

104.7(1) *Approved by the department.* "Approved by the department," for purposes of this rule, means that the gaming laboratory has submitted its qualifications in writing to the director for review and approval in writing by the director or the director's designee.

104.7(2) *Written evaluation—requirements.* The independent gaming laboratory's evaluation must analyze whether chance plays a role equal to or greater than the players' skill or knowledge in determining the outcome of the game. "Outcome of the game" includes both whether the player correctly solves the puzzle and what prize is awarded.

[ARC 4015C, IAB 9/26/18, effective 10/31/18]

These rules are intended to implement Iowa Code sections 99B.1, 99B.2 and 99B.51 to 99B.60.

[Filed emergency 12/2/92 after Notice 10/28/92—published 12/23/92, effective 12/2/92]

[Filed 12/17/03, Notice 10/29/03—published 1/7/04, effective 2/11/04¹]

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[Filed ARC 4015C (Notice ARC 3922C, IAB 8/1/18), IAB 9/26/18, effective 10/31/18]

¹ February 11, 2004, effective date of 104.1, definition of “prize,” 104.3“5,” 104.4(3)“f” and “g,” and 104.6“1” delayed 70 days by the Administrative Rules Review Committee at its meeting held February 9, 2004.

CHAPTER 105 REGISTERED AMUSEMENT DEVICES

481—105.1(10A,99B) Definitions. The definitions in rule 481—104.1(10A,99B) are incorporated by reference in this chapter. In addition, the following definitions apply to the possession and use of registered amusement devices.

“Amusement device registration availability” means a registration position which becomes available:

1. When a distributor or owner:

- Is going out of business,
- Fails to renew a registration by the renewal due date, or
- Has an electrical or mechanical device seized by law enforcement and the seizure is upheld through a forfeiture hearing; or

2. When any other legal order has been issued which pertains to violations of Iowa Code chapter 99B, 123, or 123A.

“Counting mechanism” means an appliance that tallies the volume of business of an individual amusement device.

“Distributes” means to deliver, to provide or to otherwise make available in Iowa amusement devices required to be registered in accordance with these rules.

“Distributor” is as defined in Iowa Code section 99B.51.

“Manufacturer” is as defined in Iowa Code section 99B.51.

“Operation” means that a registered amusement device is made available for use by the public or made available for use on the premises of a charitable organization.

“Owner” is as defined in Iowa Code section 99B.51.

“Person” means a person as defined by Iowa Code section 4.1.

“Premises” means a location where one or more registered amusement devices are available for public use.

“Prize” means a ticket(s) or token(s) that is dispensed by a registered amusement device as an award for use and that is worth up to \$50 in merchandise.

“Registered amusement device” means an electrical or mechanical amusement device in operation subject to registration by the department pursuant to Iowa Code section 99B.53 and includes both the external and internal components. Any change in the registered amusement device, including the external and internal components of the registered amusement device, constitutes a new registered amusement device for which registration by the owner is required. The word “change” as used herein does not include repairs or replacement of parts that do not change or alter the operation of the device as originally registered by the owner. If the repairs or replacement parts alter the operation of the device as originally registered, then the device must be reregistered before it is made available for operation.

“Responsible party,” as listed on the amusement device registration, means the owner of the amusement device.

“Security mechanism” means an appliance which prevents a person from operating an electrical or mechanical amusement device by not allowing the acceptance of money until action is taken by the owner or owner’s designee to allow the person to operate the device.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—105.2(99B) Registered amusement device restrictions. Each registered amusement device shall only be located on premises for which a Class “B,” Class “C,” special Class “C,” Class “D,” Class “E,” or Class “F” retail alcohol license has been issued pursuant to Iowa Code chapter 123.

105.2(1) The number of electrical or mechanical amusement devices registered by the department shall not exceed 6,928, the total number of devices registered by the department as of April 28, 2004.

105.2(2) The department shall not initially register an electrical or mechanical amusement device that is required to be registered to an owner for a location for which only a Class “B” or a Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 on or after April 28, 2004.

105.2(3) An owner or distributor at a location for which only a Class “B” or a Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 shall not relocate an amusement device registered as provided in this chapter to a location other than the location of the device on April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device as provided in this chapter to another person for which only a Class “B” or a Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 after April 28, 2004.

EXAMPLE 1: An electrical or mechanical amusement device is registered with the department and is located at a convenience store that has a Class “E” retail alcohol license.

1. If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag. A repair constitutes any changes to a device as long as the type of game and the number of devices in a location is not changed.

2. If the amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

3. The amusement device cannot be moved from one location to another under a Class “B” or a Class “E” retail alcohol license, even if the number of registered devices at a location does not change.

4. If a location with a Class “B” or a Class “E” retail alcohol license had only one amusement device registered on April 28, 2004, the maximum number of devices allowed at that location shall be one.

105.2(4) Rescinded IAB 8/29/07, effective 9/1/07.

105.2(5) Each registered amusement device at a location for which only a Class “B” or a Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 shall include on the amusement device a security mechanism which prevents a person from operating the amusement device by not allowing the acceptance of money until the machine is activated by the owner or owner’s designee. A sign shall be posted stating that a person must be 21 years of age or older to operate the registered amusement device.

EXAMPLE 2: A patron in a convenience store tries to put money in an amusement device, but the amusement device will not take the money. The patron approaches the person working behind the counter, who then asks the patron for an ID. If the patron is 21 years of age or older, the amusement device is activated, thereby allowing the patron to play the amusement device. The security mechanism shall be immediately reactivated once the patron has finished playing the amusement device.

105.2(6) The registered amusement device shall be registered in accordance with these rules and shall comply with all of the requirements of Iowa Code section 99B.53, this chapter, 481—Chapter 104, and any other applicable laws or rules.

105.2(7) The registered amusement device shall not be designed or adapted to facilitate gambling, nor shall the device be capable of playing poker, blackjack, or keno.

105.2(8) If the department, or the department’s designee, determines that a registered amusement device is not in compliance with the requirements of this chapter or any other provision of Iowa law, the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, distributor, or owner, may be revoked or suspended.

105.2(9) A person owning or leasing a registered amusement device shall not advertise or promote the availability of the amusement device to the public as anything other than an electrical or mechanical amusement device. Situations that constitute advertising and promoting include, but are not limited to, posted signs, newspaper/magazine advertisements, radio and television advertisements, word of mouth and Internet posting.

105.2(10) If there is no amusement device registration availability, a person may be included on a waiting list for an amusement device registration position.

a. A person shall appear on the waiting list only once for a single registration position.

b. A person may be added to the waiting list by sending an email to gmms@dia.iowa.gov.

c. A person may request to be added to the waiting list by calling or writing the department at Department of Inspections and Appeals, Social and Charitable Gambling Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; (515)281-6840.

d. The department shall maintain the waiting list in chronological order with the person requesting addition to the waiting list first being first on the list.

e. When a registration position becomes available, the department shall notify the first person on the waiting list of the amusement device registration availability. If multiple positions become available, the department may notify as many persons on the waiting list as there are available positions.

f. The department shall notify the person on the waiting list of the amusement device registration availability by mail or by email if the person has provided an email address.

g. The person on the waiting list shall have ten days from the time the notification was sent to submit a registered amusement device application and the fee.

h. If the person does not submit the registration application, fee and proof of purchase within ten days, the person shall forfeit the position on the waiting list and shall be removed from the waiting list.

105.2(11) An initial amusement device registration shall only be allowed at a location that has a Class “C,” special Class “C,” Class “D,” or Class “F” retail alcohol license issued pursuant to Iowa Code chapter 123.

EXAMPLE 3: An amusement device is located in a bar that has the appropriate retail alcohol license. On April 28, 2004, this location had only one amusement device. An additional amusement device may be added to this location.

1. If the amusement device needs to be repaired, it may be repaired without the loss of the device’s registration position.

2. If the amusement device is defective and needs to be replaced, it can be replaced with the same game under the original registration without the incurring of additional charges.

3. If the amusement device is replaced with a new amusement device that has a different game, before the device is moved to the premises, the process for initial registration shall be followed pursuant to this chapter and Iowa Code chapter 99B. The replacement of the amusement device creates an amusement device registration availability, and the position will be offered to the next person on the waiting list pursuant to this rule.

105.2(12) If a person purchases an amusement device that is registered with the department, the registration tag, if available, must be removed from the purchased amusement device and returned to the department. The department shall be notified in writing within ten calendar days of the change in ownership of any amusement device. The purchased device shall be removed from the inventory of the original owner, thus creating a registration position on the waiting list. The purchaser must apply for a registration position on the waiting list for the device.

105.2(13) An amusement device that is registered with the department and located in a warehouse may be placed in a location that has a Class “C,” special Class “C,” Class “D,” or Class “F” retail alcohol license issued pursuant to Iowa Code chapter 123. Such a device may also be used as a replacement device.

105.2(14) The registration application for all new amusement devices must be accompanied by the receipt, invoice, or bill of sale containing the seller’s name, company name, and address, transaction date, motherboard serial number, and name of the game.

105.2(15) Devices shall not allow for more than one player. Each playing position constitutes one amusement device.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—105.3(99B) Prohibited registered amusement devices. The following devices are prohibited:

1. Amusement devices registered in violation of statutory or regulatory requirements governing such devices.
2. Registered amusement devices that are prohibited by 481—104.3(99B).
3. Any registered amusement device that does not conform to the requirements in these rules or Iowa Code chapter 99B.
4. Any registered amusement device designed or adapted to facilitate gambling.

481—105.4(99B) Prizes. Prizes may be awarded for use of a registered amusement device, but only in conformance with 481—104.4(99B). All prizes awarded must be in conformance with each of the requirements imposed by 481—104.4(99B).

481—105.5(99B) Registration by a manufacturer, distributor, or an owner that operates for profit. A person engaged in business in Iowa as a manufacturer, a distributor, or an owner that operates for profit shall be registered with the department prior to engaging in business in Iowa. A person shall register under each of the categories that apply to the business to be conducted in Iowa and shall pay the designated fee for each category of registration.

105.5(1) Each person that registers with the department shall pay an annual registration fee as follows:

- a. For a manufacturer, \$2,500.
- b. For a distributor, \$5,000.
- c. For an owner of no more than four registered amusement devices at a single location or premises that is not a qualified organization, \$2,500.

105.5(2) Registration forms are available from the Department of Inspections and Appeals, Social and Charitable Gambling Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083, or by telephone at (515)281-6840.

105.5(3) If registration information changes, the person shall notify the department in writing of the changes within ten calendar days.

105.5(4) Registration fees are nonrefundable.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18]

481—105.6(99B) Registration of registered amusement devices. Each owner of an amusement device subject to registration by the department pursuant to Iowa Code section 99B.53 shall obtain a registration. A registration issued pursuant to Iowa Code chapter 99B is required to offer a registered amusement device for use.

105.6(1) Each owner of an amusement device subject to the registration requirements imposed by this chapter shall register the device before it is made available for operation.

105.6(2) In the event a registration position is not open, the distributor’s or owner’s name may be placed on the department’s waiting list. The distributor or owner will be notified by the department when a position is available and the distributor’s name or owner’s name reaches the top of the waiting list. Upon the distributor’s or owner’s

completion of the application form and payment of the required fee, the department shall issue a registration tag valid for one year from the date of issuance.

a. Application forms are available from the Department of Inspections and Appeals, Amusement Devices, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. The application form shall contain all information required by the department.

b. Prior to placement of the amusement device for public use, the registration tag shall be prominently displayed on the front of the registered amusement device in such a manner as to be clearly visible to the general public.

c. Any changes to the information provided on the application, including but not limited to changes in ownership, registered amusement device location, and the cessation of business in this state, shall be reported to the department in writing or electronically within ten calendar days of the occurrence of any of the above events.

d. Registration fees are nonrefundable.

105.6(3) A new registered amusement device must be obtained from a manufacturer that is registered with the department pursuant to Iowa Code section 99B.56. A registered amusement device that has been placed on location and used may be obtained from a manufacturer, distributor or owner that is registered with the department pursuant to Iowa Code section 99B.56. A distributor or owner that ceases, for any reason, to be registered pursuant to Iowa Code section 99B.56 may sell any registered amusement devices in the distributor's or owner's possession within 12 months from the date registration ceases. For all amusement devices new to the purchaser, proof of purchase, which includes the seller's name, company name, and address, must accompany the application for registration of the machine.

105.6(4) No more than four registered amusement devices shall be permitted or offered for use at any single premises.

a. A registered amusement device may be located on premises for which a Class "C," special Class "C," Class "D," or Class "F" retail alcohol license has been issued pursuant to Iowa Code chapter 123.

b. A registered amusement device may be located on the premises for which a Class "B" or Class "E" retail alcohol license has been issued pursuant to Iowa Code chapter 123, but new registrations shall not be issued to devices to be located at premises with a Class "B" or Class "E" retail alcohol license.

(1) A registered amusement device at a location for which only a Class "B" or Class "E" retail alcohol license has been issued pursuant to Iowa Code chapter 123 may only be relocated to a location for which a Class "C," special Class "C," Class "D," or Class "F" retail alcohol license has been issued and shall not be transferred, assigned, sold or leased to another person for which only a Class "B" or Class "E" retail alcohol license has been issued pursuant to Iowa Code chapter 123.

(2) If ownership of the location changes, the Class "B" or Class "E" retail alcohol license does not lapse and the registered amusement device is not removed from the location, the device may remain at the location.

105.6(5) Each electrical or mechanical amusement device required to be registered pursuant to Iowa Code section 99B.53 shall include on the amusement device a counting mechanism.

a. The department of inspections and appeals and the department of public safety shall notify the distributor, owner, or qualified organization in advance to have access to the information provided by the counting mechanism.

b. The counting mechanism shall be at least six digits in length and shall cumulatively count the total amounts inserted in the device during game play. If the mechanism being used tallies in dollars and cents, at least six digits must be used for the dollar amount. The counting mechanism shall not be able to be reset.

c. The counting mechanism shall be equipped with a battery backup, or an equivalent, and shall be capable of accurately maintaining all required information for 30 days after power is discontinued from the device.

105.6(6) The owner of the registered amusement device shall exercise due diligence in ensuring that the amusement device is in compliance with these rules and all laws governing such devices. Upon request by the department or the department's designee, any manufacturer or distributor registered with the department, or any owner of a registered device, shall permit the inspection of any amusement device and shall make available for inspection all records, documents, and agreements pertaining to the amusement device.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—105.7(99B) Violations. Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. Conviction for illegal gambling may result under the provisions of Iowa Code chapter 725.
2. Suspension or revocation of a retail alcohol license may result under the provisions of Iowa Code chapter 123.
3. Property may be forfeited under the provisions of Iowa Code chapter 809.
4. Violation of any laws pertaining to gambling may result in suspension or revocation of a registration as prescribed in Iowa Code section 99B.55.

5. Unless otherwise prescribed in Iowa Code section 99B.55, a registration may be revoked upon the violation of any gambling law, rule or regulation, including Iowa Code chapter 99B, 481—Chapter 104, or this chapter.

6. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B.

7. A person under the age of 21 shall not participate in the operation of an electrical or mechanical amusement device that is required to be registered. A person who violates the provisions of Iowa Code section 99B.57 commits a scheduled violation under Iowa Code section 805.8C(4).

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—105.8(10A,99B) Appeal rights. Decisions to refuse to issue a registration or to revoke a registration by the department may be appealed in accordance with the procedures set out in 481—Chapter 9. The refusal to issue a registration or the notice of revocation shall be in writing and state the specific grounds for the action. When an appeal is received, the status of the registration is governed by the following standards:

105.8(1) No registration will be issued when a new application is denied.

105.8(2) A previously issued registration remains effective until a final agency decision is issued.

[ARC 3523C, IAB 12/20/17, effective 1/24/18]

481—105.9(10A,99B) Procedure for denial, revocation, or suspension of a registration.

105.9(1) The department may revoke, suspend, or deny a registration issued pursuant to Iowa Code section 99B.56 for cause following 30 days' written notice delivered by certified mail, return receipt requested, or by personal service and an opportunity for hearing pursuant to 481—105.8(10A,99B).

105.9(2) If the registrant has not requested a hearing within the prescribed time period, the department may affirm, modify or set aside the department's proposed action in the department's final written decision.

105.9(3) The department may suspend a registration prior to a hearing if the director determines that the public integrity of the registered activity is compromised or that there is a risk to public health, safety, or welfare.

105.9(4) The department may rescind the notice of revocation, suspension, or denial at any point prior to hearing when the department becomes satisfied that the reasons for revocation, suspension, or denial have been or will be removed.

105.9(5) The department shall send by certified mail, return receipt requested, or shall serve personally upon the applicant or registrant a copy of the department's final decision.

105.9(6) If the department finds cause for denial of a registration, the applicant shall not reapply for registration of an amusement device for two years.

105.9(7) If the department finds cause for revocation or suspension, the department shall suspend or revoke the registration for a period not to exceed two years.

105.9(8) In addition to the suspension or revocation, a registrant that allows an individual under the age of 21 to operate an electrical or mechanical amusement device may also be fined for a scheduled violation pursuant to Iowa Code sections 805.8C(4) and 805.8C(5).

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—105.10(99B) Annual verification of device location. Each distributor or owner that owns amusement devices shall, with the annual distributor or owner registration, verify all device locations.

[ARC 1930C, IAB 4/1/15, effective 5/6/15]

481—105.11(99B) Criteria for approval or denial of a registration.

105.11(1) The department shall consider the following factors in determining whether to approve or deny an application for registration of an amusement device, a manufacturer, a distributor, or an owner:

a. The applicant and responsible person's history of compliance with Iowa Code sections 99B.51 to 99B.60 and with other gambling laws and rules.

b. Other factors the department deems appropriate.

105.11(2) The department shall deny a registration application if:

a. The location of the device when placed in operation is not a premises with a Class "C," special Class "C," Class "D," or Class "F" retail alcohol license.

b. The applicant owes back taxes or fees to the state of Iowa.

c. An amusement device registration availability position is not available.

d. For any other reason, the department deems denial of the registration appropriate.

105.11(3) The period for refusal to issue a registration shall not exceed two years.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 4015C, IAB 9/26/18, effective 10/31/18; ARC 6976C, IAB 4/5/23, effective 5/10/23]

481—105.12(10A,99B) Suspension or revocation of a registration. If a registrant or the person responsible for the amusement device violates the law, including Iowa Code chapter 99B, 481—Chapter 104, this chapter, or any other laws or administrative rules, the registrant's registration may be suspended or revoked.

Examples of violations of law or rules include: awarding cash prizes, redeeming tokens or tickets for more than \$50 of merchandise in a transaction, allowing a person younger than 21 years of age to use a registered amusement device, moving an amusement device without updating its registration to the new location, allowing an amusement device in a location without the appropriate retail alcohol license, and failing to file an annual verification of device location.

[ARC 1930C, IAB 4/1/15, effective 5/6/15; ARC 6976C, IAB 4/5/23, effective 5/10/23]

These rules are intended to implement Iowa Code sections 99B.1, 99B.2 and 99B.51 to 99B.60.

[Filed 12/17/03, Notice 10/29/03—published 1/7/04, effective 2/11/04]¹

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[Filed ARC 6976C (Notice ARC 6879C, IAB 2/8/23), IAB 4/5/23, effective 5/10/23]

¹ Effective date of 2/11/04 delayed 70 days by the Administrative Rules Review Committee at its meeting held February 9, 2004.

CHAPTER 106
CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

481—106.1(99B) Definitions. In addition to definitions found in Iowa Code chapter 99B, for the purposes of this chapter, the following definitions apply:

“*Card game tournament*” or “*tournament*” means a series of card games held by a licensee during a consecutive period of time of not more than 24 hours and not held as part of an annual game night licensed pursuant to Iowa Code section 99B.26.

“*Department*” means the department of inspections and appeals.

“*Educational, civic, public, charitable, patriotic, or religious uses*” means the same as defined in Iowa Code section 99B.1(14).

“*Licensee*” means a qualified organization representing veterans that has been issued a license pursuant to Iowa Code section 99B.12 and the rules in 481—Chapter 100 and this chapter.

[ARC 4016C, IAB 9/26/18, effective 10/31/18]

481—106.2(99B) Licensing. Before any card game tournament may occur, a license application must be approved by the department. Application and license requirements are found in rules 481—100.3(99B), 481—100.4(99B), and 481—100.5(99B). A qualified organization intending to conduct veterans card game tournaments must complete the section of the license application for veterans card game tournaments.

[ARC 4016C, IAB 9/26/18, effective 10/31/18]

481—106.3(99B) Card game tournament. In addition to the requirements found in Iowa Code section 99B.27, licensees conducting tournaments shall comply with all of the following:

106.3(1) Licensee to conduct tournament. The licensee shall conduct each tournament and shall not contract with or permit another person to conduct the tournament or any card game during the tournament.

106.3(2) Tournament rules. Tournament rules shall be posted or distributed to all participants before the tournament begins. Rules shall include the following:

- a. Card games and the rules of each card game;
- b. Participation fees;
- c. Prize(s) for each card game and tournament;
- d. How winners will be determined; and
- e. Any other tournament rules.

[ARC 4016C, IAB 9/26/18, effective 10/31/18]

481—106.4(99B) Records. The licensee shall comply with the record-keeping requirements found in Iowa Code sections 99B.16 and 99B.27(3) and 481—Chapter 100. The licensee shall keep a journal of all dates of events, amount of gross receipts, amount given out as prizes, expenses, amount collected for taxes, and amount collected as revenue.

[ARC 4016C, IAB 9/26/18, effective 10/31/18]

These rules are intended to implement Iowa Code sections 99B.2 and 99B.27.

[Filed emergency 6/27/07—published 7/18/07, effective 7/1/07]

[Filed 8/22/07, Notice 7/18/07—published 9/12/07, effective 10/17/07]

[Filed ARC 3523C (Notice ARC 3407C, IAB 10/25/17), IAB 12/20/17, effective 1/24/18]

[Filed ARC 4016C (Notice ARC 3921C, IAB 8/1/18), IAB 9/26/18, effective 10/31/18]

CHAPTER 107

GAME NIGHTS

[Prior to 8/1/07, see 481—100.31(99B) and 481—100.60(99B) to 481—100.63(99B)]

Rescinded **ARC 3192C**, IAB 7/5/17, effective 8/9/17

CHAPTERS 108 to 499

Reserved

MODEL RULES

CHAPTER 500

MODEL RULES FOR BOARD ADMINISTRATIVE PROCESSES

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 4]

481—500.1(17A) Definitions.

“*License*” means a license to practice the specific practice governed by one of the boards defined in this chapter.

“*Licensee*” means a person licensed to practice the specific practice governed by one of the boards defined in this chapter.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.2(17A) Purpose of board. The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, and 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, and 157 applicable to each board. The mission of each professional licensing board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

500.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

500.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

500.2(3) Imposing discipline on licensees as provided by statute or rule.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.3(17A,147,272C) Organization of board and proceedings.

500.3(1) Each professional licensing board is composed of members appointed by the governor and confirmed by the senate as defined in Iowa Code chapter 147.

500.3(2) Each board elects a chairperson and vice chairperson from its membership at the first meeting after April 30 of each year.

500.3(3) A majority of the members of each board constitutes a quorum.

500.3(4) Board meetings are governed in accordance with Iowa Code chapter 21.

500.3(5) Each professional licensing board has the authority to:

a. Develop and implement continuing education rules to ensure the continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session. The records shall be stored securely in the board office.

e. Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board’s own initiation.

f. Initiate and impose licensee discipline.

g. Monitor licenses that are restricted by a board order.

h. Establish and register peer reviewers.

i. Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action.

j. Perform any other functions authorized by a provision of law.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.4(17A) Name and address changes.

500.4(1) Notice of change of address. Each licensee shall notify the board of a change of the licensee’s current mailing address within 30 days after the change of address occurs.

500.4(2) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.5(147) Duplicate certificate. A duplicate certificate is required if the current certificate is lost, stolen or destroyed. Duplicate certificates may be purchased online.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.6(17A,147,272C) License denial.

500.6(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing and cite the reasons for which the application was denied.

500.6(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing by submitting a request in writing within 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing and subsequent procedures will be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 481—Chapter 506.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.7(272C) Audit of continuing education. The board may select licensees for audit following license renewal.

500.7(1) If selected for audit, the licensee will provide certificates of completion of continuing education within 30 days of notice. The documents will contain the course date, title, contact hours, sponsor and licensee's name. An extension of time may be granted on an individual basis.

500.7(2) All licensees must retain continuing education certificates for two years after the renewal.

500.7(3) If the submitted certificates are incomplete or unsatisfactory, the licensee may submit make-up credit to cover the deficit. The deadline for make-up credit is 90 days from the date of the notice of deficit.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.8(272C,83GA,SF2325) Automatic exemption. A licensee is exempt from the continuing education requirement during the license biennium when the licensee:

1. Served on active duty in the military service; or
2. Resided in another state or district having continuing education requirements; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.9(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption providing an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application.

500.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

500.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

500.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.10(147,272C) Order for physical, mental, substance abuse or clinical competency examination. If the board has probable cause, a licensee may be required to submit to a physical, mental, substance abuse or clinical competency examination at the licensee's expense.

500.10(1) Content of order. A board order for a physical, mental, substance abuse or clinical competency examination shall include the following items:

- a. A description of the type of examination.
- b. The amount of time the licensee has to complete the examination.
- c. A statement indicating that the licensee is to sign necessary releases for the board to communicate with the examiner of the evaluation or treatment facility.

- d. A statement that the licensee is to communicate with the board regarding the status of the examination.
- e. A statement that the licensee will have the examiner provide the examination results directly to the board within a specified period of time.

500.10(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request that the board approve an alternative examiner or treatment facility. The board in its discretion shall determine whether to grant the request.

500.10(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 481—Chapter 506. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned to maintain the licensee's confidentiality.

500.10(4) *Closed hearing.* Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

500.10(5) *Order and reports confidential.* An examination order and any subsequent examination reports issued in the course of a board investigation are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 500.15(3), in order to allow the licensee an opportunity to prepare for hearing.

500.10(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

500.10(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered physical, mental, substance abuse or clinical competency examination constitutes a violation of the rules of the board and is grounds for disciplinary action.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—500.11(252J,272D) Noncompliance rules regarding child support and nonpayment of state debt. The board hereby adopts by reference 481—Chapter 8.

[ARC 8077C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 272C and 272D.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 501
MODEL RULES FOR LICENSURE BY VERIFICATION OR WORK EXPERIENCE

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 19]

481—501.1(272C) Licensure by verification. Licensure by verification is available in accordance with the following:

501.1(1) Eligibility. A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

501.1(2) Board application. The applicant must submit the following:

- a. A completed application.
- b. Payment of the application fee.
- c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d. An attestation that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12.
- e. A copy of the complete criminal record if the applicant has a criminal history.
- f. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.
- g. A written statement from the applicant detailing the scope of practice in the other state.
- h. Copies of relevant laws setting forth the scope of practice in the other state.

501.1(3) Applicants with prior discipline. If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

501.1(4) Applicants with pending licensing complaints or investigations. If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

501.1(5) Compact privileges. A person who has a privilege to practice in Iowa by virtue of an interstate licensure compact is ineligible for licensure by verification. Licenses issued pursuant to this rule do not grant privileges to practice in any other jurisdiction pursuant to any interstate licensure compact.

[ARC 8083C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—501.2(272C) Applicants with work experience in jurisdictions without licensure requirements.

501.2(1) Work experience. An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in Iowa is sought. The three years of work experience must be within the four years preceding the date of application for initial licensure. The applicant must satisfy all other requirements, including passing any required examinations, to receive a license.

501.2(2) Required documentation. An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements shall carry the burden of proving all of the following by submitting relevant documents as part of a completed license application:

- a. Proof of Iowa residency.
- b. Proof of three or more years of work experience within the four years preceding the application for licensure.
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for which the license is sought in Iowa.

[ARC 8083C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 502
MODEL RULES FOR USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND
INITIAL
LICENSING DECISIONS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 14]

481—502.1(272C) Definitions.

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession pursuant to Iowa Code section 272C.1(8).

“*License*” means any license, registration, or permit issued by the board.

[ARC 8082C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—502.2(272C) License application. Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 481—502.3(272C), the applicant’s convictions will be reviewed when the board receives a completed license application.

502.2(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

502.2(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

502.2(3) An applicant must submit all evidence of rehabilitation that the applicant wishes to be considered by the board.

502.2(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

502.2(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

502.2(6) Any application fees paid will not be refunded if the license is denied.

[ARC 8082C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—502.3(272C) Eligibility determination.

502.3(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure.

502.3(2) To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner’s convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

[ARC 8082C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—502.4(272C) Appeal. A petitioner deemed ineligible or an applicant denied a license due to a disqualifying offense may appeal the decision in the manner and time frame set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board’s written decision will become a final order.

502.4(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

502.4(2) The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

502.4(3) The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

502.4(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

[ARC 8082C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—502.5(272C) Future petitions or applications. If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 503
MODEL RULES FOR COMPLAINTS AND INVESTIGATIONS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 9]

481—503.1(272C) Complaints.

503.1(1) Complaints can be submitted online, in writing, or verbally and are to include the name and contact information of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated by the board.

503.1(2) A person is not civilly liable for filing a complaint in good faith or for cooperating with a board investigation.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—503.2(272C) Report of malpractice claims or actions or disciplinary actions. The licensee will submit any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—503.3(272C) Report of acts or omissions. A licensee who has knowledge of rule violations committed by another licensee will file a report to the board. The report will include the name and contact information of the licensee and the date, time, and place of the incident.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—503.4(272C) Investigation of complaints or reports. Board staff may request additional information, solicit a response from the licensee, subpoena records, conduct interviews, gather evidence, and perform other investigatory duties to sufficiently inform the board.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—503.5(17A,272C) Issuance of investigatory subpoenas.

503.5(1) The board administrator or designee may, upon the written request of a board investigator or on the administrator's own initiative, subpoena books, papers, records, and other real evidence that is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
 - b. Adequate safeguards have been established to prevent unauthorized disclosure;
 - c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access;
- and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

503.5(2) Each subpoena will contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production, or inspection and copying;
- d. The deadline for a motion to quash or modify the subpoena to be filed;
- e. The signature, address and telephone number of the board administrator or designee;
- f. The date of issuance;
- g. A return of service.

503.5(3) A person can challenge the subpoena by filing a motion to quash describing the legal justification for the motion accompanied by a legal brief or factual affidavits, within 14 days after service of the subpoena.

503.5(4) Upon receipt of a timely motion to quash or modify a subpoena, an administrative law judge will issue a decision. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

503.5(5) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person, via email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

503.5(6) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's

decision is not final for purposes of judicial review until either (1) the person is notified the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—503.6(272C) Peer review.

503.6(1) A complaint may be assigned to a peer reviewer for review and report to the board.

503.6(2) The board determines what complaints or other matters are referred to a peer reviewer.

503.6(3) Peer reviewers are not to be liable for acts, omissions, or decisions made in connection with service made in good faith.

503.6(4) The peer reviewer will observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—503.7(17A) Appearance. The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board administrator assisting the board in the contested case proceeding.

[ARC 8079C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A and 272C.

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CHAPTER 504
MODEL RULES FOR DISCIPLINE
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 13]

481—504.1(272C) Definitions.

“*Board*” means a professional licensing board established pursuant to Iowa Code chapter 147.

“*Licensee*” means a person licensed under Iowa Code chapter 147.

“*Licensee discipline*” means the same as defined in Iowa Code section 272C.1.

[ARC 8081C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—504.2(147,272C) Grounds for discipline. A board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in Iowa Code section 147.55:

504.2(1) Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of inspections, appeals, and licensing any false or forged diploma, certificate, affidavit, identification or qualification in making an application for a license in this state.

504.2(2) Professional incompetence. Professional incompetence includes but is not limited to:

a. A substantial lack of knowledge or ability to perform professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other licensees in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care that is ordinarily exercised by the average licensee acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensee in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

504.2(3) Practice outside the scope of the profession.

504.2(4) Habitual intoxication or addiction to the use of drugs, including:

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs that may impair a licensee’s ability to practice with reasonable skill or safety.

504.2(5) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

504.2(6) Falsification, alteration or destruction of client or patient records with the intent to deceive.

504.2(7) Acceptance of any fee by fraud or misrepresentation.

504.2(8) Negligence by the licensee in the practice of the profession, which includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions that impair the ability to safely and skillfully practice the profession.

504.2(9) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

504.2(10) Violation of a regulation, rule, or law of this state, another state, or the United States that relates to the practice of the profession.

504.2(11) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

504.2(12) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice in another state, district, territory or country.

504.2(13) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

504.2(14) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

504.2(15) Engaging in any conduct that subverts or attempts to subvert a board investigation.

504.2(16) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

504.2(17) Failure to respond within 30 days of receipt of communication from the board that was sent by registered or certified mail.

504.2(18) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

504.2(19) Failure to pay costs assessed in any disciplinary action.

504.2(20) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

504.2(21) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

504.2(22) Knowingly aiding, assisting, or advising a person to unlawfully practice the profession.

504.2(23) Failure to report a change of name or address within 30 days after it occurs.

504.2(24) Representing oneself as a licensee when one's license has been suspended or revoked, or when one's license is on inactive status.

504.2(25) Permitting another person to use the licensee's license for any purpose.

504.2(26) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license to practice the profession.

504.2(27) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) that constitutes unethical conduct may include but is not limited to the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

504.2(28) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

504.2(29) Violation of the terms of an initial agreement with the Iowa professional health committee or violation of the terms of an impaired practitioner recovery contract with the Iowa professional health committee.

[ARC 8081C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—504.3(272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions as defined in Iowa Code section 272C.3 and as follows:

1. Order a physical or mental evaluation or order alcohol and drug screening within a time specified by the board.

2. Such other sanctions allowed by law.

[ARC 8081C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—504.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring the citizens of this state a high standard of professional care.

2. The facts of the particular violation.

3. Any extenuating facts or other countervailing considerations.

4. The number of prior violations or complaints.

5. The seriousness of prior violations or complaints.

6. Whether remedial action has been taken.

7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

[ARC 8081C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code sections 21.7, 272C.4, 272C.5, and 272C.6.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 505
MODEL RULES FOR LICENSEE REVIEW COMMITTEE
[Prior to 7/10/24, see Public Health Department[641] Ch 193]

481—505.1(272C) Definitions. For the purpose of these rules, the following definitions apply:

“*Committee*” means the licensee review committee established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1) “k.”

“*Contract*” means the written document establishing the terms for participation in the program.

“*Impairment*” means a condition identified in Iowa Code section 272C.3(1) “k” that renders or, if left untreated, is reasonably likely to render a licensee unable to practice the licensee’s profession with reasonable skill and safety.

“*Initial agreement*” means the written document establishing the initial terms for participation in the program.

“*Licensing board*” or “*board*” means the same as defined in Iowa Code section 272C.1(6).

“*Licensee*” means a person licensed by a licensing board.

“*Self-report*” means written notification provided by the licensee to the program that the licensee has had, has, or may have an impairment. A self-report can be made even if the applicable licensing board has received a complaint or a third party has alleged the same.

[ARC 7753C, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 7/10/24]

481—505.2(272C) Purpose. The committee assists and monitors the recovery or rehabilitation of practitioners who self-report potential impairments or who are referred by the board. The program is both an advocate for participant health and a means to protect the health and safety of the public.

[ARC 7753C, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 7/10/24]

481—505.3(272C) Composition of the committee. The division of licensing appoints the members of the committee.

505.3(1) Membership. The committee may be composed of but not limited to members with the following qualifications:

- a. A health care professional who has expertise in the area of substance use and addiction treatment.
- b. A health care professional who has expertise in the diagnosis and treatment of mental health conditions.
- c. A psychiatrist who holds a current, active Iowa license as defined in rule 653—9.1(147,148,150,150A).
- d. A licensee who has maintained recovery for a period of no less than two years since successfully completing a recovery program, a board-ordered probation for substance use, or a comparable monitoring program.
- e. A licensed physician, physician assistant or advanced registered nurse licensee whose specialty area is family practice, internal medicine, or emergency medicine or who has expertise in substance use disorders, mental health conditions or both.
- f. A licensed psychiatric pharmacist.
- g. A public member.
- h. Non-voting members, which may include the board’s executive director, the bureau chief or designee, the bureau chief of monitoring, and, if requested to join the committee for consultation during a participant review, an executive officer or board member under which a participant is regulated.

505.3(2) Officers. At the last meeting of each calendar year, the committee elects co-chairpersons to serve a one-year term beginning January 1.

505.3(3) Terms. Committee members are appointed for a three-year term, for a maximum of three terms. Each term expires on December 31 of the third year of the term. Initial terms are for a period of one to three years as designated by the division to provide continuity to the committee.

[ARC 7753C, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 7/10/24]

481—505.4(272C) Eligibility.

505.4(1) Eligibility. To be eligible for participation in the program, a prospective participant must self-report or be referred by the board for an impairment or potential impairment. The committee will determine for each self-report or referral whether the prospective participant is an appropriate candidate for participation in the program. A prospective participant is ineligible if the committee finds sufficient evidence that the prospective participant:

- a. Diverted medication for distribution to third parties or for personal profit;
- b. Adulterated, misbranded, or otherwise tampered with medication intended for a patient;
- c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the committee; or
- d. Caused injury or harm to a patient or client.

505.4(2) Board referral. The board may refer a licensee to the program privately, in a public disciplinary order, or other public order if a complaint or investigation reveals an impairment or potential impairment or the board determines that the licensee is an appropriate candidate for review by the committee.

505.4(3) Discretion. Eligibility for participation in the program is at the sole discretion of the committee. No person is entitled to participate in the program.

505.4(4) Limitations. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of the program or successfully complete the program. Participation in the program shall not relieve the participant's board of any duties nor divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the participant's profession and unrelated to their impairment will be referred to the board for appropriate action.

[ARC 7753C, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 7/10/24]

481—505.5(272C) Terms of participation in the impaired practitioner recovery program. A participant is responsible for complying with the terms of participation established in the initial agreement and the contract, and for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

505.5(1) Duration. Length of participation in the program may vary depending upon the review of all relevant information and the nature of the impairment.

505.5(2) Noncompliance. Participants are responsible for notifying the committee of any instance of noncompliance. Notification of noncompliance made to the committee by the participant, a monitoring provider, or another party may result in notice to the board for its consideration of disciplinary action.

a. First instance. After a first instance of significant noncompliance, including a relapse, the committee may give notice to the board identifying the participant by number, describing the relevant terms of the participant's contract and the noncompliance, and including the committee's recommendation for continued participation in the program.

b. Second instance. After a second instance of significant noncompliance, including a relapse, the committee may refer the case and the participant's identity to the board. In its referral, the committee may make recommendations as to continued participation in the program.

c. Referral at any time. The committee may make a referral to the board for noncompliance that identifies the participant by name at any time the circumstances warrant such a referral.

505.5(3) Practice limitations. The committee may impose limitations on a participant's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. Participation in the program is conditioned upon participants agreeing to limit practice as requested by the committee and established in accordance with the terms specified in the contract. If a participant refuses to agree to or comply with the limitations established in the initial agreement or contract, the committee will refer the licensee to the board for appropriate action.

505.5(4) Staff discretion. Staff, in consultation with legal counsel, may provide guidance and direction to participants between regularly scheduled committee meetings, including program descriptions, interim limitations on practice, and negotiation and execution of initial agreements and contracts on behalf of the committee. The committee retains authority to review all interim decisions at its discretion. Staff may consult with the committee chairperson or medical director if needed.

[ARC 7753C, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 7/10/24]

481—505.6(272C) Confidentiality. Information in the possession of the board or the committee is subject to the confidentiality requirements of Iowa Code section 272C.6.

505.6(1) Participants must report their participation to the applicable monitoring program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

505.6(2) The committee is authorized to communicate information about a participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the initial agreement or contract.

505.6(3) The committee is authorized to communicate information about a participant to the board if a participant does not comply with the terms of the contract as set forth in rule 641—193.5(272C).

505.6(4) The committee is authorized to communicate information about a current or former participant to the board if reliable information held by the committee reasonably indicates that a significant risk to the public exists.

505.6(5) If the board initiates disciplinary or other action against a participant or former participant as a result of communication from the committee, the board may include information from the program file in the public documents.

[ARC 7753C, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 7/10/24]

These rules are intended to implement Iowa Code chapter 272C.

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[Editorial change: IAC Supplement 7/10/24]

CHAPTER 506
MODEL RULES FOR CONTESTED CASES BEFORE LICENSING BOARDS AND INFORMAL
SETTLEMENTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 11]

481—506.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of _____ examiners.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means the state of Iowa as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent, or an intervenor.

“*Presiding officer*” means the board of _____ examiners.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.3(17A) Time requirements.

506.3(1) Time will be computed as provided in Iowa Code section 4.1(34).

506.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.4(17A) Probable cause. If the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board will order that a contested case hearing be commenced by the filing of a statement of charges and notice of hearing.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.5(17A) Statement of charges and notice of hearing.

506.5(1) *Legal review.* Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general prior to filing.

506.5(2) *Delivery.* Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Restricted certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

506.5(3) *Contents.* The statement of charges and notice of hearing will contain the following information:

- a. A statement by the board showing that there is probable cause to file the statement of charges;
- b. A statement of the time, place, and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular sections of the statutes and rules involved;
- e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- f. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties’ counsel, if known;
- g. Reference to the procedural rules governing conduct of the contested case proceeding;
- h. Reference to the procedural rules governing informal settlement;
- i. Identification of the board as the presiding officer; and
- j. Notification of the time period in which a party may request, when applicable, and pursuant to Iowa Code section 17A.11 and rules 481—506.8(17A,272C) and 481—506.9(17A,272C), that the presiding officer be an administrative law judge.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.6(17A,272C) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. All other parties to a proceeding before the board will be entitled to have counsel at their own expense.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.7(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case will be the board. The board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 481—506.24(17A). An administrative law judge may assist and advise the board at the contested case hearing.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.8 Reserved.

481—506.9(17A) Presiding officer in a nondisciplinary contested case.

506.9(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing that identifies or describes the presiding officer as the board.

506.9(2) The board may deny the request only upon a finding that one or more of the following apply:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b. An administrative law judge with the qualifications identified in subrule 506.9(4) is unavailable to hear the case within a reasonable time.
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- f. The request was not timely filed.
- g. The request is not consistent with a specified statute.

506.9(3) The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 506.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

506.9(4) An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a J.D. degree unless waived by the agency.

506.9(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

506.9(6) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board will have the powers of and will comply with the provisions of this chapter which apply to presiding officers.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.10(17A) Disqualification.

506.10(1) A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that:

(1) Is a party to the case, or an officer, director or trustee of a party;

(2) Is a lawyer in the case;

(3) Is known to have an interest that could be substantially affected by the outcome of the case; or

(4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

506.10(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information that is relayed to assigned investigators;

c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case.

506.10(3) Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrules 506.10(3) and 506.22(9).

506.10(4) In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit including a statement of the reasons for the determination that withdrawal is unnecessary.

506.10(5) If a party asserts disqualification on any appropriate ground, including those listed in subrule 506.10(1), the party will file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board will determine the matter as part of the record in the case.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.11(17A) Consolidation—severance.

506.11(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

506.11(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.12(17A) Pleadings.

506.12(1) *Pleadings.* Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

506.12(2) *Answer.* An answer will be filed within 20 days of service of the statement of charges and notice of hearing.

a. An answer will:

(1) Identify on whose behalf it is filed;

(2) Set forth the name, address and telephone number of the person filing the answer, the person on whose behalf it is filed, and the attorney, if any, representing that person;

(3) Specifically admit, deny, or otherwise answer all material allegations of the statement of charges; and

(4) Set forth any facts deemed necessary to show an affirmative defense and contain as many additional defenses as the respondent may claim.

b. The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

506.12(3) Amendments. Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.13(17A) Service and filing.

506.13(1) Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding will be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

506.13(2) Service—how made. Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

506.13(3) Filing—when required. After the notice of hearing, all documents in a contested case proceeding will be filed with the board. All documents that are required to be served upon a party will be filed simultaneously with the board.

506.13(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321-1270; delivered to an established courier service for immediate delivery to that office; or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

506.13(5) Proof of mailing. Proof of mailing includes:

- a. A legible United States Postal Service postmark on the envelope, or
- b. A certificate of service, or
- c. A notarized affidavit, or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the _____ Board, and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.14(17A) Discovery.

506.14(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure.

506.14(2) Any motion relating to discovery will allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 506.14(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

506.14(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.15(17A,272C) Subpoenas in a contested case.

506.15(1) Subpoenas issued in a contested case may compel the attendance of witnesses at a deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at a deposition or hearing, or may be issued separately. Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 481—subrule 503.5(1) prior to the issuance of the subpoena.

506.15(2) A request for a subpoena will include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

- a. The name, address and telephone number of the person requesting the subpoena;
- b. The name and address of the person to whom the subpoena shall be directed;
- c. The date, time, and location at which the person shall be commanded to attend and give testimony;
- d. Whether the testimony is requested in connection with a deposition or hearing;
- e. A description of the books, papers, records or other real evidence requested;
- f. The date, time and location for production, or inspection and copying; and
- g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 481—subrule 503.5(1) have been satisfied.

506.15(3) Each subpoena will contain, as applicable:

- a. The caption of the case;
- b. The name, address and telephone number of the person who requested the subpoena;
- c. The name and address of the person to whom the subpoena is directed;
- d. The date, time, and location at which the person is commanded to appear;
- e. Whether the testimony is commanded in connection with a deposition or hearing;
- f. A description of the books, papers, records or other real evidence the person is commanded to produce;
- g. The date, time and location for production, or inspection and copying;
- h. The time within which a motion to quash or modify the subpoena must be filed;
- i. The signature, address and telephone number of the board administrator or designee;
- j. The date of issuance; and
- k. A return of service.

506.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee will mail the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

506.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified, and the motion may be accompanied by legal briefs or factual affidavits.

506.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

506.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

506.15(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.16(17A) Motions.

506.16(1) Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

506.16(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

506.16(3) The presiding officer may schedule oral argument on any motion.

506.16(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.17(17A) Prehearing conferences.

506.17(1) Any party may request a prehearing conference. Prehearing conferences will be conducted by the board administrator, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion will be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference will be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

506.17(2) The parties at a prehearing conference will be prepared to discuss the following subjects, and the board administrator or administrative law judge may issue appropriate orders concerning:

- a. The possibility of settlement.
- b. The entry of a scheduling order to include deadlines for completion of discovery.
- c. Stipulations of law or fact.
- d. Stipulations on the admissibility of exhibits.
- e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.
- f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Exhibits other than rebuttal exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.
- g. Stipulations for waiver of any provision of law.
- h. Identification of matters that the parties intend to request be officially noticed.
- i. Consideration of any additional matters that will expedite the hearing.

506.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.18(17A) Continuances.

506.18(1) Applications for continuances will be filed with the board. If the application for continuance is not contested, the board administrator will issue the appropriate order. If the application for continuance is contested, the matter will be heard by the board or may be delegated by the board to an administrative law judge.

506.18(2) A written application for a continuance will:

- a. Be made at the earliest possible time and no less than five working days before the hearing. Within five working days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency circumstances;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or the party's representative.

506.18(3) The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The public interest;
- d. The likelihood of informal settlement;
- e. The existence of an emergency;
- f. Any objection;
- g. Any applicable time requirements;
- h. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- i. The timeliness of the request; and
- j. Other relevant factors.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.19(17A,272C) Hearing procedures.

506.19(1) The presiding officer will have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

506.19(2) All objections will be timely made and stated on the record.

506.19(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

506.19(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

506.19(5) The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

506.19(6) Witnesses may be sequestered during the hearing.

506.19(7) The presiding officer will have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

506.19(8) The presiding officer will conduct the hearing in the following manner:

- a. The presiding officer will give an opening statement briefly describing the nature of the proceedings;
- b. The parties will be given an opportunity to present opening statements;
- c. The parties will present their cases in the sequence determined by the presiding officer;
- d. Each witness will be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;
- e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

506.19(9) The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

506.19(10) The hearing will be open to the public unless the licensee requests that the hearing be closed.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.20(17A) Evidence.

506.20(1) The presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

506.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

506.20(3) Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

506.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

506.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection will be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

506.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

506.20(7) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.21(17A) Default.

506.21(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

506.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

506.21(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

506.21(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

506.21(5) Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

506.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

506.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 481—506.24(17A).

506.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

506.21(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 481—506.26(17A).

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.22(17A) Ex parte communication.

506.22(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

506.22(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

506.22(3) Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

506.22(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 481—506.6(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

506.22(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

506.22(6) The board administrator or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a final decision under any provision of law and they comply with this rule.

506.22(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines.

506.22(8) A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order.

b. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

506.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

506.22(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by board personnel will be reported to the board and its board administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.23(17A) Recording costs. Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to review an interlocutory order, the board will consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.25(17A) Applications for rehearing.

506.25(1) *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

506.25(2) *Content of application.* The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

506.25(3) *Additional evidence.* A party may request the taking of additional evidence only by establishing that (a) the facts or other evidence arose after the original proceeding, or (b) the party offering such evidence could not reasonably have provided such evidence at the original proceedings, or (c) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding. A written request to present additional evidence must be filed with the application for rehearing or by a nonappealing party within 14 days of service of the notice of appeal.

506.25(4) *Filing deadline.* The application will be filed with the board within 20 days after issuance of the final decision.

506.25(5) *Notice to other parties.* A copy of the application will be timely mailed by the applicant to all parties of record not joining therein.

506.25(6) *Disposition.* Any application for a rehearing will be deemed denied unless the agency grants the application within 20 days after its filing.

506.25(7) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

506.25(8) *Proceedings.* If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.26(17A) Stays of agency actions.

506.26(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

506.26(2) *When granted.* In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5) “c.”

506.26(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.27(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.28(17A) Emergency adjudicative proceedings.

506.28(1) *Emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order.

506.28(2) Before issuing an emergency adjudicative order, the board will consider factors including but not limited to the following:

- a.* Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b.* Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c.* Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e.* Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

506.28(3) *Issuance of order.*

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board’s decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately delivered to the person who is required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal delivery;
- (2) Certified mail, return receipt requested, to the last address on file with the agency;
- (3) Certified mail to the last address on file with the agency; or
- (4) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

506.28(4) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

506.28(5) Completion of proceedings. After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

a. Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion.

b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the person who is required to comply with the order is the party requesting the continuance.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.29(17A) Appeal. Any appeal to district court from a decision in a contested case will be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.30(272C) Publication of decisions. Final decisions of the board in a contested case will be transmitted to the appropriate association, the news media, and the employer.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.31(272C) Reinstatement.

506.31(1) Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked.

506.31(2) Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

506.31(3) All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

506.31(4) An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

506.31(5) An order of reinstatement will be based upon a decision that incorporates findings of facts and conclusions of law. The order will be published as provided for in this chapter.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.32(17A,272C) License denial.

506.32(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing will specifically delineate the facts to be contested at the hearing.

506.32(2) All hearings held pursuant to this rule will be held pursuant to the process outlined in this chapter.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—506.33(17A,272C) Informal settlement.

506.33(1) Informal settlement—parties. A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by an assistant attorney general, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board. The full board will not be involved in negotiations until the presentation of a final, written, signed informal settlement to the full board for approval.

506.33(2) *Informal settlement—waiver of notice and opportunity to be heard.* Consent to negotiation by a respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code chapter 17A during informal settlement negotiation, and the assistant attorney general is thereafter authorized to discuss informal settlement with the board's designee until that consent is expressly withdrawn.

506.33(3) *Informal settlement—board approval.* All informal settlements are subject to approval of a majority of the board. No informal settlement will be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it will be of no force or effect to either party.

506.33(4) *Informal settlement—disqualification of designee.* A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

506.33(5) *Voluntary surrender.* The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

[ARC 8080C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 507
PROFESSIONAL LICENSING DIVISION FEES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 5]

481—507.1(147,152D) Athletic training license fees. All fees are nonrefundable.

- 507.1(1)** License fee for license to practice athletic training is \$120.
- 507.1(2)** Temporary license fee for license to practice athletic training is \$120.
- 507.1(3)** Biennial license renewal fee for each biennium is \$120.
- 507.1(4)** Late fee for failure to renew before expiration is \$60.
- 507.1(5)** Reactivation fee is \$180.
- 507.1(6)** Duplicate or reissued license certificate fee is \$20.
- 507.1(7)** Verification of license fee is \$20.
- 507.1(8)** Returned check fee is \$25.
- 507.1(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.2 Reserved.

481—507.3(147,154D) Behavioral science license fees. All fees are nonrefundable.

- 507.3(1)** License fee for license to practice marital and family therapy or mental health counseling is \$120.
- 507.3(2)** Temporary license fee for license to practice marital and family therapy or mental health counseling is \$120.
- 507.3(3)** License fee for license to practice as a behavior analyst or assistant behavior analyst is \$120. Behavior analyst and assistant behavior analyst licenses issued for less than one year shall not be subject to a renewal fee for the first renewal.
- 507.3(4)** Biennial license renewal fee for each biennium is \$120.
- 507.3(5)** Late fee for failure to renew before expiration is \$60.
- 507.3(6)** Reactivation fee is \$180.
- 507.3(7)** Duplicate or reissued license certificate fee is \$20.
- 507.3(8)** Verification of license fee is \$20.
- 507.3(9)** Returned check fee is \$25.
- 507.3(10)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.4(151) Chiropractic license fees. All fees are nonrefundable.

- 507.4(1)** License fee for license to practice chiropractic is \$270.
- 507.4(2)** Fee for issuance of annual temporary certificate is \$120.
- 507.4(3)** Biennial license renewal fee is \$120.
- 507.4(4)** Late fee for failure to renew before the expiration date is \$60.
- 507.4(5)** Reactivation fee is \$180.
- 507.4(6)** Duplicate or reissued license certificate fee is \$20.
- 507.4(7)** Fee for verification of license is \$20.
- 507.4(8)** Returned check fee is \$25.
- 507.4(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.5(147,157) Barbering and cosmetology arts and sciences license fees. All fees are nonrefundable.

- 507.5(1)** License fee for license to practice barbering and cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is \$60.
- 507.5(2)** Biennial license renewal fee for each license for each biennium is \$60.
- 507.5(3)** Late fee for failure to renew before expiration is \$60.
- 507.5(4)** Reactivation fee for applicants licensed to practice barbering and cosmetology arts and sciences is \$120; for establishments, \$144; and for schools, \$330.
- 507.5(5)** Duplicate or reissued license certificate fee is \$20.

507.5(6) Fee for verification of license is \$20.

507.5(7) Returned check fee is \$25.

507.5(8) Disciplinary hearing fee is a maximum of \$75.

507.5(9) Fee for license to conduct a school teaching barbering and cosmetology arts and sciences is \$600.

507.5(10) Fee for renewal of a school license is \$270 annually.

507.5(11) Establishment license fee is \$80.

507.5(12) Biennial license renewal fee for each establishment license for each biennium is \$80.

507.5(13) Demonstrator and not-for-profit temporary permit fee is \$42 for the first day and \$12 for each day thereafter that the permit is valid.

507.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is \$25 for each type of procedure or certified laser product or IPL device.

507.5(15) An initial fee or a reactivation fee for certification of barbers and cosmetologists to perform shaving for hair removal or administer chemical peels is \$25.

507.5(16) An initial fee and renewal fee for the one-year permit allowing limited services outside of a licensed establishment as outlined in rules 481—943.16(157) and 481—943.22(157) is \$40.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.6(147,152A) Dietetics license fees. All fees are nonrefundable.

507.6(1) License fee for license to practice dietetics, license by endorsement, or license by reciprocity is \$120.

507.6(2) Biennial license renewal fee for each biennium is \$120.

507.6(3) Late fee for failure to renew before expiration is \$60.

507.6(4) Reactivation fee is \$180.

507.6(5) Duplicate or reissued license certificate fee is \$20.

507.6(6) Verification of license fee is \$20.

507.6(7) Returned check fee is \$25.

507.6(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 152A and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.7(147,154A) Hearing aid specialists license fees. All fees are nonrefundable.

507.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is \$156.

507.7(2) Renewal of license fee is \$60.

507.7(3) Temporary permit fee is \$42.

507.7(4) Late fee is \$60.

507.7(5) Reactivation fee is \$120.

507.7(6) Duplicate or reissued license certificate fee is \$20.

507.7(7) Verification of license fee is \$20.

507.7(8) Returned check fee is \$25.

507.7(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapter 154A.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.8(147) Massage therapy license fees. All fees are nonrefundable.

507.8(1) License fee for license to practice massage therapy is \$120.

507.8(2) Biennial license renewal fee for each biennium is \$60.

507.8(3) Temporary license fee for up to one year is \$120.

507.8(4) Late fee for failure to renew before expiration is \$60.

507.8(5) Reactivation fee is \$120.

507.8(6) Duplicate or reissued license certificate fee is \$20.

507.8(7) Verification of license fee is \$20.

507.8(8) Returned check fee is \$25.

507.8(9) Disciplinary hearing fee is a maximum of \$75.

507.8(10) Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.9(147,156) Mortuary science license fees. All fees are nonrefundable.

507.9(1) License fee for license to practice funeral directing is \$120.

507.9(2) Biennial funeral director's license renewal fee for each biennium is \$120.

507.9(3) Late fee for failure to renew before expiration is \$60.

507.9(4) Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

507.9(5) Duplicate or reissued license certificate fee is \$20.

507.9(6) Verification of license fee is \$20.

507.9(7) Returned check fee is \$25.

507.9(8) Disciplinary hearing fee is a maximum of \$75.

507.9(9) Funeral establishment or cremation establishment fee is \$90.

507.9(10) Three-year renewal fee of funeral establishment or cremation establishment is \$90.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.10(147,155) Nursing home administrators license fees. All fees are nonrefundable.

507.10(1) License fee for license to practice nursing home administration is \$120.

507.10(2) Biennial license renewal fee for each license for each biennium is \$60.

507.10(3) Late fee for failure to renew before expiration is \$60.

507.10(4) Reactivation fee is \$120.

507.10(5) Duplicate or reissued license certificate fee is \$20.

507.10(6) Verification of license fee is \$20.

507.10(7) Returned check fee is \$25.

507.10(8) Disciplinary hearing fee is a maximum of \$75.

507.10(9) Provisional license fee is \$120.

This rule is intended to implement Iowa Code section 147.80 and chapter 155.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.11(147,148B) Occupational therapy license fees. All fees are nonrefundable.

507.11(1) License fee for an occupational therapist or occupational therapist assistant license to practice occupational therapy is \$120.

507.11(2) Biennial license renewal fee to practice occupational therapy is \$60.

507.11(3) Biennial license renewal fee for an occupational therapy assistant is \$60.

507.11(4) Late fee for failure to renew before expiration is \$60.

507.11(5) Reactivation fee is \$120.

507.11(6) Duplicate or reissued license certificate fee is \$20.

507.11(7) Verification of license fee is \$20.

507.11(8) Returned check fee is \$25.

507.11(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.12(147,154) Optometry license fees. All fees are nonrefundable.

507.12(1) License fee for license to practice optometry, license by endorsement, or license by reciprocity is \$300.

507.12(2) Biennial license renewal fee for each biennium is \$144.

507.12(3) Late fee for failure to renew before expiration date is \$60.

507.12(4) Reactivation fee is \$204.

507.12(5) Duplicate or reissued license certificate fee is \$20.

507.12(6) Verification of license fee is \$20.

507.12(7) Returned check fee is \$25.

507.12(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.13(147,148A) Physical therapy license fees. All fees are nonrefundable.

507.13(1) License fee for license to practice physical therapy or as a physical therapist assistant is \$120.

- 507.13(2) Biennial license renewal fee for a physical therapist is \$60.
- 507.13(3) Biennial license renewal fee for a physical therapist assistant is \$60.
- 507.13(4) Late fee for failure to renew before expiration is \$60.
- 507.13(5) Reactivation fee is \$120.
- 507.13(6) Duplicate or reissued license certificate fee is \$20.
- 507.13(7) Verification of license fee is \$20.
- 507.13(8) Returned check fee is \$25.
- 507.13(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.14(148C) Physician assistants license fees. All fees are nonrefundable.

- 507.14(1) Application fee for a license is \$120.
- 507.14(2) Fee for a temporary license is \$120.
- 507.14(3) Renewal of license fee is \$120.
- 507.14(4) Late fee for failure to renew before expiration is \$60.
- 507.14(5) Reactivation fee is \$180.
- 507.14(6) Duplicate or reissued license certificate fee is \$20.
- 507.14(7) Fee for verification of license is \$20.
- 507.14(8) Returned check fee is \$25.
- 507.14(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.15(147,148F,149) Podiatry license fees. All fees are nonrefundable.

- 507.15(1) License fee for license to practice podiatry, license by endorsement, or license by reciprocity is \$400.
- 507.15(2) License fee for temporary license to practice podiatry is \$200.
- 507.15(3) The fee for a license to practice orthotics, prosthetics, or pedorthics received on or before July 1, 2015, shall be \$600. The fee for a license to practice orthotics, prosthetics, or pedorthics received after July 1, 2015, shall be \$400.
- 507.15(4) Biennial license renewal fee is \$400 for each biennium.
- 507.15(5) Reactivation fee is \$460.
- 507.15(6) Temporary license renewal fee is \$200.
- 507.15(7) Late fee for failure to renew before expiration is \$60.
- 507.15(8) Duplicate or reissued license certificate fee is \$20.
- 507.15(9) Verification of license fee is \$20.
- 507.15(10) Returned check fee is \$25.
- 507.15(11) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148F, 149 and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.16(147,154B) Psychology license fees. All fees are nonrefundable.

- 507.16(1) License fee for license to practice psychology is \$120.
- 507.16(2) Biennial license renewal fee is \$170.
- 507.16(3) Late fee for failure to renew before expiration is \$60.
- 507.16(4) Reactivation fee is \$230.
- 507.16(5) Duplicate or reissued license certificate fee is \$20.
- 507.16(6) Verification of license fee is \$20.
- 507.16(7) Returned check fee is \$25.
- 507.16(8) Disciplinary hearing fee is a maximum of \$75.
- 507.16(9) Processing fee for exemption to licensure is \$60.
- 507.16(10) Certification fee for a health service provider is \$60.
- 507.16(11) Biennial renewal fee for certification as a certified health service provider in psychology is \$60.
- 507.16(12) Reactivation fee for certification as a certified health service provider in psychology is \$60.
- 507.16(13) Provisional license fee is \$120.
- 507.16(14) Provisional license renewal fee is \$170.

This rule is intended to implement Iowa Code sections 147.80 and 154B.6 and chapters 17A, 154B and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.17(147,152B) Respiratory care and polysomnography license fees. All fees are nonrefundable.

507.17(1) Initial license fee.

a. The initial license fee for a respiratory care practitioner license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

b. The initial license fee for a polysomnographic technologist license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa DCI and the FBI.

c. The initial license fee for a respiratory care and polysomnography practitioner license is \$90, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa DCI and the FBI.

507.17(2) Biennial license renewal fee for each biennium.

a. The biennial license renewal fee for each biennium for a respiratory care practitioner license is \$75.

b. The biennial license renewal fee for each biennium for a polysomnographic technologist license is \$75.

c. The biennial license renewal fee for each biennium for a respiratory care and polysomnography practitioner license is \$90.

507.17(3) Late fee for failure to renew before expiration is \$60.

507.17(4) Reactivation fee.

a. The reactivation fee to practice respiratory care is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa DCI and the FBI if the license has been on inactive status for two or more years.

b. The reactivation fee to practice as a polysomnographic technologist is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa DCI and the FBI if the license has been on inactive status for two or more years.

c. The reactivation fee to practice respiratory care and polysomnography is \$150, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa DCI and the FBI if the license has been on inactive status for two or more years.

507.17(5) Duplicate or reissued license certificate fee is \$20.

507.17(6) Verification of license fee is \$20.

507.17(7) Returned check fee is \$25.

507.17(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 152B and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.18(147,154E) Sign language interpreters and transliterators license fees. All fees are nonrefundable.

507.18(1) License fee for license to practice interpreting or transliterating is \$120.

507.18(2) License fee for temporary license to practice interpreting or transliterating is \$120.

507.18(3) Biennial license renewal fee for each biennium is \$120.

507.18(4) Late fee for failure to renew before expiration is \$60.

507.18(5) Duplicate or reissued license certificate fee is \$20.

507.18(6) Verification of license fee is \$20.

507.18(7) Returned check fee is \$25.

507.18(8) Disciplinary hearing fee is a maximum of \$75.

507.18(9) Reactivation fee is \$180.

This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.19(147,154C) Social work license fees. All fees are nonrefundable.

507.19(1) License fee for license to practice social work is \$120.

507.19(2) Biennial license renewal fee for a license at the bachelor's level is \$72; at the master's level, \$120; and at the independent level, \$144.

507.19(3) Late fee for failure to renew before expiration is \$60.

507.19(4) Reactivation fee for a license at the bachelor's level is \$132; at the master's level, \$180; and at the independent level, \$204.

507.19(5) Duplicate or reissued license certificate fee is \$20.

507.19(6) Verification of license fee is \$20.

507.19(7) Returned check fee is \$25.

507.19(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

[ARC 8078C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—507.20(147) Speech pathology and audiology license fees. All fees are nonrefundable.

507.20(1) License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is \$120.

507.20(2) Biennial license renewal fee for each biennium is \$96.

507.20(3) Late fee for failure to renew before expiration is \$60.

507.20(4) Reactivation fee is \$156.

507.20(5) Duplicate or reissued license certificate fee is \$20.

507.20(6) Verification of license fee is \$20.

507.20(7) Returned check fee is \$25.

507.20(8) Disciplinary hearing fee is a maximum of \$75.

507.20(9) Temporary clinical license renewal fee is \$60.

507.20(10) Temporary permit fee is \$30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 508 to 699
Reserved

BOARD OF PODIATRY

CHAPTER 700

LICENSURE OF PODIATRISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 220]

481—700.1(149) Definitions.

“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.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“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.

“NBPME” means National Board of Podiatric Medical Examiners.

“Reactivate” or *“reactivation”* means the process as outlined in rule 481—700.15(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 rule 481—506.31(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.

[ARC 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.2(149) Requirements for licensure.

700.2(1) The applicant will submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149).

700.2(2) 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 college to the board.

700.2(3) Licensees who were issued their licenses within six months prior to the renewal date do not need to renew their licenses until the renewal date two years later.

700.2(4) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

700.2(5) 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.

700.2(6) An applicant who graduated from a podiatric college on or after January 1, 1995, but before January 1, 2013, shall present documentation of successful completion of a residency approved by the CPME of the American Podiatric Medical Association.

700.2(7) An applicant who graduated from a podiatric college on or after January 1, 2013, shall present documentation of successful completion of two years of a residency approved by the CPME of the American Podiatric Medical Association.

700.2(8) 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 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.3(149) Written examinations.

700.3(1) The examinations required by the board shall be Part I, Part II, and Part III of the NBPME.

700.3(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.

700.3(3) A passing score as recommended by the administrators of the NBPME examinations shall be required.

[ARC 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.4(149) Educational qualifications.

700.4(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 CPME of the American Podiatric Medical Association. Transcripts must be sent directly from the college to the board of podiatry.

700.4(2) Foreign-trained podiatrists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone 310.258.9451, website www.ierf.org, or email 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 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.5(149) Title designations. A podiatrist may use the prefix “Doctor” but shall add after the person’s name the word “Podiatrist” or “DPM.”

[ARC 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.6(147,149) Temporary license.

700.6(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.

700.6(2) Each applicant shall:

a. Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149);

b. Have official copies of academic transcripts sent directly to the board of podiatry from a college of podiatric medicine approved by the CPME of the American Podiatric Medical Association;

c. 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;

d. 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 that is approved by the CPME of the American Podiatric Medical Association;

e. Request verification of license from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction 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.

700.6(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.

700.6(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 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.7(149) Licensure by endorsement. An applicant who has been a licensed podiatrist under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

700.7(1) The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

- a.* Submits a completed online application for licensure and pays the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149);
- b.* Shows evidence of licensure requirements that are similar to those required in Iowa;
- c.* Provides the board with official copies of academic transcripts, verifying graduation from a college of podiatric medicine approved by the CPME of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board of podiatry; and
- d.* Provides verification of license from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction 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.

700.7(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.

700.7(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.

700.7(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 CPME of the American Podiatric Medical Association.

700.7(5) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.8(149) License renewal.

700.8(1) The biennial license renewal period for a license to practice podiatry begins on July 1 of an even-numbered year and ends on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

700.8(2) An individual who was issued a license within six months of the license renewal date does not need to renew the individual's license until the subsequent renewal two years later.

700.8(3) An applicant who graduated from a podiatric college on or after January 1, 2013, and who is seeking renewal for the first time shall present documentation of successful completion of a residency program approved by the CPME of the American Podiatric Medical Association.

700.8(4) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—702.2(149,272C) and the mandatory reporting requirements of subrule 700.9(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.

700.8(5) 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 and dependent adults 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 700.8(5) "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall complete the applicable department of health and human services training related to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b." 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 481—Chapter 500.

c. The board may select licensees for audit of compliance with the requirements in paragraphs 700.8(5) “a” and “b.”

700.8(6) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

700.8(7) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

700.8(8) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in 481—subrule 507.15(3). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

700.8(9) Inactive license. A license not renewed by the end of the grace period is inactive. 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 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, an applicant will:

700.9(1) Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149).

700.9(2) 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, provide the following:

(1) Verification of the license 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 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, provide the following:

(1) Verification of the license 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 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.

[ARC 7986C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—700.10(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 481—Chapter 506 and must apply for and be granted reactivation of the license in accordance with rule 481—700.15(17A,147,272C) prior to practicing as a podiatrist in this state.

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These rules are intended to implement Iowa Code chapters 17A, 147, 149, and 272C.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 701
LICENSURE OF ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 221]

481—701.1(148F) Definitions.

“*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.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as an orthotist, prosthetist, or pedorthist 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 orthotics, prosthetics, or pedorthics to an applicant who is or has been licensed in another state.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—701.8(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice orthotics, prosthetics, or pedorthics 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 rule 481—506.31(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.

[ARC 7987C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—701.2(148F) Requirements for licensure.

701.2(1) The applicant will submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149).

701.2(2) No application will be considered complete until official copies of academic transcripts are received.

a. Applicants for licensure in orthotics or prosthetics must submit proof of graduation from an educational program approved by the Commission on Accreditation of Allied Health Education Programs.

b. Applicants for licensure in pedorthics must submit proof of graduation from an educational program approved by the National Commission on Orthotic and Prosthetic Education.

701.2(3) Transcripts must be sent directly from the program to the board.

701.2(4) Licensees who were issued their licenses within six months prior to the renewal date do not need to renew their licenses until the renewal date two years later.

701.2(5) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

701.2(6) The applicant shall ensure that the passing score from the appropriate professional examination is sent directly to the board from the examination service.

701.2(7) Applicants for licensure in orthotics or prosthetics must provide documentation of successful completion of a residency program accredited by the National Commission on Orthotic and Prosthetic Education.

701.2(8) Applicants for licensure in pedorthics must provide documentation of successful completion of a qualified clinical experience program.

[ARC 7987C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—701.3(148F) Written examinations.

701.3(1) Prosthetists must have completed and passed the Board of Certification/Accreditation, International (BOC), or American Board for Certification in Orthotics, Prosthetics and Pedorthics, Incorporated (ABC), examination for prosthetists.

701.3(2) Orthotists must have completed and passed the BOC or ABC examination for orthotists.

701.3(3) Pedorthists must have completed and passed the BOC or ABC examination for pedorthists.

701.3(4) The applicant has responsibility for:

a. Making arrangements to take the examination; and

b. Arranging to have the examination score reports sent directly to the board from the ABC or BOC.

701.3(5) A passing score as recommended by the administrators of the ABC or BOC examination shall be required.

[ARC 7987C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—701.4(148F) Educational qualifications.

701.4(1) An applicant for licensure to practice as an orthotist or prosthetist shall present official copies of academic transcripts, verifying completion of the following requirements:

a. A baccalaureate or higher degree from a regionally accredited college or university. Transcripts must be sent directly from the college or university to the board of podiatry; and

b. Verification of completion of an academic program in orthotics or prosthetics accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP). Transcripts must be sent directly from the program to the board of podiatry.

701.4(2) An applicant for licensure to practice as a pedorthist shall present official copies of academic transcripts, verifying completion of the following requirements:

a. A high school diploma or its equivalent; and

b. Verification of completion of an academic program in pedorthics accredited by the National Commission on Orthotic and Prosthetic Education. Verification must be sent directly from the program to the board of podiatry.

701.4(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

[ARC 7987C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—701.5(148F) Licensure by endorsement.

701.5(1) An applicant who has been a licensed orthotist, prosthetist, or pedorthist under the laws of another jurisdiction may 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:

a. Submits a completed online application for licensure and pays the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149);

b. Shows evidence of licensure requirements that are similar to those required in Iowa;

c. For prosthetic or orthotic licensure, provides:

(1) A baccalaureate or higher degree from a regionally accredited college or university. Transcripts must be sent directly from the college or university to the board of podiatry; and

(2) Verification of completion of an academic program in orthotics or prosthetics accredited by CAAHEP. Transcripts must be sent directly from the program to the board of podiatry;

d. For pedorthic licensure, provides:

(1) A high school diploma or its equivalent; and

(2) Verification of completion of an academic program in pedorthics accredited by the National Commission on Orthotic and Prosthetic Education. Verification must be sent directly from the program to the board of podiatry;

e. Provides verification of license from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction 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;

f. Submits a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board.

701.5(2) Individuals who were issued their licenses by endorsement within six months of the license renewal date do not need to renew their licenses until the next renewal date two years later.

701.5(3) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7987C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—701.6(148F) License renewal.

701.6(1) The biennial license renewal period for a license to practice orthotics, prosthetics, or pedorthics begins on July 1 of an even-numbered year and ends on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

701.6(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 date two years later.

701.6(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—705.2(148F,272C). 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.

701.6(4) Upon receipt of the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

701.6(5) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

701.6(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.15(7). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

701.6(7) 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 orthotist, prosthetist, or pedorthist in Iowa until the license is reactivated. A licensee who practices as an orthotist, prosthetist, or pedorthist 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 7987C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—701.7(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

701.7(1) Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.15(147,148F,149).

701.7(2) Provide verification of current competence to practice 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 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 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:

1. For orthotists or prosthetists, 30 hours of continuing education within two years of application for reactivation.

2. For pedorthists, 20 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 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 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:

1. For orthotists or prosthetists, 60 hours of continuing education within two years of application for reactivation.

2. For pedorthists, 40 hours of continuing education within two years of application for reactivation.

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481—701.8(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—701.8(17A,147,272C) prior to practicing as an orthotist, a prosthetist, or a pedorthist in this state.

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These rules are intended to implement Iowa Code chapters 17A, 147, 148F, and 272C.

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CHAPTER 702
CONTINUING EDUCATION FOR PODIATRISTS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 222]

481—702.1(149,272C) Definitions.

“*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 podiatry.

“*Continuing education*” means planned, organized learning acts acquired during licensure 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.

“*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 a podiatrist in the state of Iowa.

[ARC 7988C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—702.2(149,272C) Continuing education requirements.

702.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a podiatrist in this state shall be required to complete a minimum of 40 hours of continuing education.

702.2(2) Requirements for 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 40 hours of continuing education per biennium for each subsequent license renewal.

702.2(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.

702.2(4) No hours of continuing education will be carried over into the next biennium.

702.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7988C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—702.3(149,272C) Standards.

702.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

702.3(2) *Specific criteria.*

a. Licensees may obtain continuing education hours of credit by teaching in a college, university, or graduate school that is recognized by the U.S. Department of Education. The licensee may receive credit on a one-time basis for the first offering of a course.

b. Continuing education hours of credit may be obtained by completing the following programs/activities of a podiatric scientific nature and sponsored by an accredited college of podiatric medicine or the American Podiatric Medical Association or a regional or state affiliate or nonprofit hospital that are:

(1) Educational activities in which participants and faculty are present at the same time and attendance can be verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences; and

(2) Scientifically oriented material or risk management activities.

c. If the podiatrist utilizes conscious sedation, the podiatrist shall obtain a minimum of one hour of continuing education in the area of conscious sedation or other related topics.

d. A licensee who has prescribed opioids to a patient during a renewal cycle shall have obtained a minimum of one hour of continuing education regarding the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options.

e. Combined maximum per biennium of 20 hours for the following continuing education source areas will not exceed:

(1) Presenting professional programs that meet the criteria listed in this subrule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

(2) Ten hours of credit for viewing videotaped presentations if the following criteria are met:

1. There is an approved sponsoring group or agency;
2. There is a facilitator or program official present;
3. The program official is not the only attendee; and
4. The program meets all the criteria in rule 481—702.3(149,272C).

(3) Ten hours of credit for computer-assisted instructional courses or programs pertaining to patient care and the practice of podiatric medicine and surgery. These courses and programs must be approved by the American Podiatric Medical Association or its affiliates and have a certificate of completion that includes the following information:

1. Date course/program was completed;
2. Title of course/program;
3. Number of course/program contact hours; and
4. Official signature or verification of course/program sponsor.

(4) Five hours of credit for reading journal articles pertaining to patient care and the practice of podiatric medicine and surgery. The licensee must pass a required posttest and be provided with a certificate of completion.

f. No office management courses will be accepted by the board.

g. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

h. Credit is given only for actual hours attended.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 703
PRACTICE OF PODIATRY

[Prior to 8/7/02, see rules 645—219.3(514F), 645—219.4(139A)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 223]

481—703.1(149) Definitions.

“Ambulatory surgical center” or *“ASC”* means an ambulatory surgical center that has in effect an agreement with the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, in accordance with 42 CFR Part 416 as amended to November 22, 2023.

“Conscious sedation” means a depressed level of consciousness produced by the administration of pharmacological substances that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

[ARC 7989C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—703.2(149) Requirements for administering conscious sedation. A licensed podiatrist who holds a permanent license in good standing may use conscious sedation for podiatric patients on an outpatient basis in a hospital or ASC after the podiatrist has submitted to the board office an attestation on a form approved by the board.

703.2(1) The attestation shall include:

a. Evidence of successful completion within the past five years of a formal anesthesiology rotation in a residency program approved by the Council on Podiatric Medical Education (CPME); or

b. For a podiatrist who does not meet the requirements of paragraph 703.2(1) “*a.*,” an attestation with evidence that the podiatrist is authorized by the governing body of a hospital or ASC to use conscious sedation. This attestation must be received by the board prior to January 1, 2005.

703.2(2) The podiatrist will provide verification of current certification in Basic Cardiac Life Support (BCLS) or Advanced Cardiac Life Support (ACLS).

703.2(3) A podiatrist who has an attestation on file and continues to use conscious sedation will meet the requirements of 645—Chapter 702 at the time of license renewal. A minimum of one hour of continuing education in the area of conscious sedation or related topics is required beginning with the renewal cycle of July 1, 2004, to June 30, 2006. Continuing education credit in the area of conscious sedation may be applied toward the 40 hours of continuing education required for renewal of the license. In addition, the podiatrist will maintain current certification in BCLS or ACLS.

703.2(4) A podiatrist will only utilize conscious sedation in a hospital or ASC when the podiatrist has been granted clinical privileges by the governing body of the hospital or ASC in accordance with approved policies and procedures of the hospital or ASC.

703.2(5) It is a violation of the standard of care for a podiatrist to use conscious sedation agents that result in a deep sedation or general anesthetic state.

703.2(6) Reporting of adverse occurrences related to conscious sedation. A licensed podiatrist who has an attestation on file with the board must submit a report to the board within 30 days of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during or as a result of conscious sedation. Included in the report will be the following:

- a.* Description of podiatric procedures;
- b.* Description of preoperative physical condition of patient;
- c.* List of drugs and dosage administered;
- d.* Description, in detail, of techniques utilized in administering the drugs;
- e.* Description of adverse occurrence, including:
 - (1) Symptoms of any complications including, but not limited to, onset and type of symptoms;
 - (2) Treatment instituted;
 - (3) Response of the patient to treatment;
- f.* Description of the patient’s condition on termination of any procedures undertaken;
- g.* If a patient is transferred, a statement providing where and to whom; and
- h.* Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

703.2(7) Failure to report. Failure to comply with subrule 703.2(6) when the adverse occurrence is related to the use of conscious sedation may result in the podiatrist’s loss of authorization to administer conscious sedation or in other sanctions provided by law.

703.2(8) Recordkeeping. The patient’s chart must include:

- a.* Preoperative and postoperative vital signs;

- b. Drugs administered;
- c. Dosage administered;
- d. Anesthesia time in minutes;
- e. Monitors used;
- f. Intermittent vital signs recorded during procedures and until the patient is fully alert and oriented with stable vital signs;
- g. Name of the person to whom the patient was discharged; and
- h. Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

703.2(9) Failure to comply with these rules is grounds for discipline.

[ARC 7989C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—703.3(139A) Preventing HIV and HBV transmission. Podiatrists will comply with the recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, or with the recommendations of the expert review panel established pursuant to Iowa Code section 139A.22(3) and applicable hospital protocols established pursuant to Iowa Code section 139A.22(1). Failure to comply will be grounds for disciplinary action.

[ARC 7989C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—703.4(149) Unlicensed graduate of a podiatric college. An unlicensed graduate of a podiatric college may function in the licensed podiatrist's office only as a podiatric assistant. The licensed podiatrist has full responsibility and liability for the unlicensed person.

703.4(1) Treatments, charting, and notations completed by the unlicensed graduate must be initialed by that person and countersigned by the licensed podiatrist.

703.4(2) An unlicensed graduate will not:

- a. Be referred to as "doctor" during professional contact with patients.
- b. Treat patients in the office without a licensed podiatrist present.
- c. Perform surgical work without direct supervision of a licensed podiatrist.
- d. Diagnose or prescribe medicine.
- e. Take independent actions regarding diagnosis, treatment or prescriptions.
- f. Visit nursing homes or make house calls without the presence of the licensed podiatrist.
- g. Bill for any services.

[ARC 7989C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—703.5(149) Prescribing opioids. Podiatrists will review a patient's information contained in the prescription monitoring program database for each opioid prescription prior to prescribing, unless the patient is receiving inpatient hospice care or long-term residential facility care.

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CHAPTER 704
DISCIPLINE FOR PODIATRISTS, ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

[Prior to 2/6/02, see 645—Chapter 220]
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 224]

481—704.1(148F,149,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

704.1(1) Prescribing opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in the same practice.

704.1(2) Reserved.

[ARC 7990C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—704.2(148F,149,272C) Indiscriminately prescribing, administering or dispensing any drug for other than a lawful purpose. The board may impose any of the disciplinary sanctions provided in 645—Chapter 13 when the board determines that the licensee is guilty of any of the following acts or offenses:

704.2(1) Self-prescribing or self-dispensing controlled substances.

704.2(2) Prescribing or dispensing controlled substances to members of the licensee's immediate family for an extended period of time.

a. Prescribing or dispensing controlled substances to members of the licensee's immediate family is allowable for an acute condition or on an emergency basis when the physician conducts an examination, establishes a medical record, and maintains proper documentation.

b. Immediate family includes spouse or life partner, natural or adopted children, grandparent, parent, sibling, or grandchild of the physician; and natural or adopted children, grandparent, parent, sibling, or grandchild of the physician's spouse or life partner.

704.2(3) Prescribing or dispensing controlled substances outside the scope of the practice of podiatry.

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These rules are intended to implement Iowa Code chapters 147, 148F, 149, and 272C.

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CHAPTER 705
CONTINUING EDUCATION FOR ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 225]

481—705.1(148F) Definitions.

“*ABC*” means the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Incorporated.

“*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 podiatry.

“*BOC*” means the Board of Certification/Accreditation, International.

“*Continuing education*” means planned, organized learning acts acquired during licensure 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.

“*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 orthotist, prosthetist, or pedorthist in the state of Iowa.

[ARC 7991C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—705.2(148F,272C) Continuing education requirements.

705.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of the next even-numbered year.

a. Each biennium, each person who is licensed to practice as an orthotist in this state shall be required to complete a minimum of 30 hours of continuing education.

b. Each biennium, each person who is licensed to practice as a prosthetist in this state shall be required to complete a minimum of 30 hours of continuing education.

c. Each biennium, each person who is licensed to practice as a pedorthist in this state shall be required to complete a minimum of 20 hours of continuing education.

705.2(2) Requirements for 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.

a. The new orthotic licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

b. The new prosthetic licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

c. The new pedorthic licensee will be required to complete a minimum of 20 hours of continuing education per biennium for each subsequent license renewal.

705.2(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.

705.2(4) No hours of continuing education will be carried over into the next biennium.

705.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7991C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—705.3(148F,272C) Standards.

705.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of that 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, and presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

705.3(2) *Specific criteria for licensees.*

a. Licensees may obtain continuing education hours of credit by attending workshops, conferences, symposiums, electronically transmitted courses, live interactive conferences, and academic courses that relate directly to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of orthotics, prosthetics, or pedorthics will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

b. Licensees may obtain continuing education hours of credit by teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of a course.

c. Continuing education hours of credit may be granted for any of the following activities not to exceed a maximum combined total of 15 hours for orthotists and prosthetists and 10 hours for pedorthists:

(1) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

(2) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee will receive five hours of credit per page.

(3) Viewing videotaped presentations and electronically transmitted material that have a postcourse test if the following criteria are met:

1. There is a sponsoring group or agency;

2. There is a facilitator or program official present;

3. The program official is not the only attendee; and

4. The program meets all the criteria specified in this rule.

(4) Participating in home study courses that have a certificate of completion and a postcourse test.

(5) Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics.

(6) Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics.

(7) Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics.

[ARC 7991C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—705.4(148F,272C) Audit of continuing education report. In addition to the requirements of 645—4.11(272C), proof of current BOC or ABC certification as an orthotist, prosthetist, or pedorthist will be accepted in lieu of individual certificates of completion for an audit.

[ARC 7991C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 148F.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 706
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 226]

481—706.1(17A,272C) Board of podiatry adoption of uniform and model rules. The board hereby adopts by reference the following:

706.1(1) to **706.1(9)** Reserved.

706.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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CHAPTERS 707 to 719
Reserved

BOARD OF RESPIRATORY CARE AND POLYSOMNOGRAPHY

CHAPTER 720

LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS,
AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS

[Prior to 4/17/02, see 645—Chapter 260]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 261]

481—720.1(148G,152B) Definitions.

“Active license” means a license that is current and has not expired.

“Board” means the board of respiratory care and polysomnography.

“BRPT” means the Board of Registered Polysomnographic Technologists.

“CAAHEP” means the Commission on Accreditation of Allied Health Education Programs.

“CoARC” means the Commission on Accreditation for Respiratory Care.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Licensee” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

“License expiration date” means March 31 of even-numbered years.

“NBRC” means the National Board for Respiratory Care.

“Polysomnographic technologist” means a person licensed by the board to engage in the practice of polysomnography under the general supervision of a physician or a qualified health care professional prescriber.

“Reactivate” or *“reactivation”* means the process as outlined in rule 481—720.14(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care and polysomnography to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in rule 481—506.31(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.

[ARC 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.2(148G,152B) General requirements for licensure. The following general criteria apply to licensure:

720.2(1) An applicant must submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.17(147,152B). The applicant must submit two completed sets of fingerprint cards to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) criminal history background checks is assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

a. An applicant must submit a release authorizing the background check.

b. Licensees who were issued their licenses within six months prior to the renewal do not need to renew their licenses until the renewal month two years later.

c. An applicant who has been a licensed respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner under the laws of another jurisdiction shall provide verification of license from the jurisdiction in which the applicant has most recently been licensed. Verification shall be sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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) All disciplinary action taken against the license.

720.2(2) Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed.

[ARC 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.3(152B) Additional requirements for respiratory care practitioner licensure. The following are additional specific criteria for licensure as a respiratory care practitioner:

720.3(1) Successful completion of a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

720.3(2) Foreign-trained respiratory care practitioners shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Education Research Foundation, Inc., Credentials Evaluation Service; or International Credentialing Associates, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate bears the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

720.3(3) The examination required by the board shall be the Therapist Multiple-Choice Examination or the Certified Respiratory Therapist Examination administered by the NBRC. A score on the examination that meets or exceeds the minimum passing score established by the NBRC is required.

720.3(4) Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

a. Scores are sent directly from the examination service to the board;

b. A copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or

c. A copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion is submitted to the board.

[ARC 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.4(148G,152B) Additional requirements for polysomnographic technologist licensure. The following are additional specific criteria for licensure as a polysomnographic technologist:

720.4(1) Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

720.4(2) Graduation from an entry into respiratory care professional practice program accredited by CoARC or CAAHEP for which a transcript will be submitted to the board office directly from the college or university; and direct-source verification of one of the following:

a. Completion of a sleep specialist program option accredited by CoARC or CAAHEP, or

b. Obtaining the sleep disorder specialist credential from the NBRC, or

c. Obtaining the registered polysomnographic technologist credential from the BRPT; or

720.4(3) Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP with the transcript sent directly to the board from the college or university; or

720.4(4) Requirements for current Iowa licensees holding a license in a profession other than polysomnography. An individual who holds an active license under Iowa Code section 147.2 in a profession other than polysomnography and whose license is in good standing with the board for that profession may receive licensure upon verification from the medical director of the individual's current employer or the medical director's designee that the individual has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

720.4(5) Foreign-trained polysomnographic technologists shall:

a. Provide an equivalency evaluation of their educational credentials by either International Education Research Foundation, Inc., Credentials Evaluation Service; or International Credentialing Associates, Inc. The candidate will bear the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

720.4(6) Licensure by proof of work experience. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

720.4(7) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.5(148G,152B) Requirements for dual licensure. The following are additional specific criteria for licensure as a respiratory care and polysomnography practitioner. An applicant for licensure as a respiratory care and polysomnography practitioner shall meet the requirements of subrules 720.5(1) and 720.5(2).

720.5(1) The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

a. Foreign-trained practitioners shall:

(1) Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc., Credentials Evaluation Service; or International Credentialing Associates, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate will bear the expense of the curriculum evaluation.

(2) Provide a copy of the certificate or diploma awarded to the applicant from the program in the country in which the applicant was educated.

(3) Receive a final determination from the board regarding the application for licensure.

b. Examination requirements. The examinations required by the board shall be the Therapist Multiple-Choice Examination administered by the NBRC and either the Sleep Disorders Specialist Examination (SDS) administered by the NBRC or the Registered Polysomnographic Technologist Examination administered by the BRPT. The minimum passing score established by the NBRC or BRPT is required.

c. Results of the examination. Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

(1) Scores are sent directly from the examination service to the board;

(2) A copy of a certificate showing proof of the successful achievement of the CRT or RRT credential awarded by the NBRC submitted to the board; or

(3) A copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion of the Therapist Multiple-Choice Examination, State Clinical Examination, or Certified Respiratory Therapist Examination administered by the NBRC submitted to the board.

720.5(2) The applicant must also meet one of the following requirements:

a. Graduation from a polysomnographic educational program accredited by CAAHEP, with the transcript sent directly from the college or university to the board; or

b. Completion of a sleep specialist program option accredited by CoARC or CAAHEP with the transcript submitted to the board office directly from the college or university; and direct-source verification of one of the following:

(1) Completion of the curriculum for a polysomnographic certificate established and accredited by the CAAHEP as an extension of the respiratory care program, or

(2) Obtaining the sleep disorder specialist credential from the NBRC, or

(3) Obtaining the registered polysomnographic technologist credential from the BRPT; or

c. Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP, with the transcript submitted to the board office directly from the college or university; or

d. Hold an active license under Iowa Code section 147.2 in a profession other than polysomnography that is in good standing with the board for that profession and provide verification from the medical director of the applicant's current employer or the medical director's designee that the applicant has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

[ARC 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.6(148G,152B) License renewal.

720.6(1) The biennial license renewal period for a license will begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

720.6(2) An individual who was issued an initial license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

720.6(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—721.2(148G,152B,272C) and the mandatory reporting requirements of subrule 720.8(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.

720.6(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 and dependent adults in Iowa will complete the applicable department of health and human services training relating to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b."

b. The requirement for mandatory training for identifying and reporting child and dependent adult abuse will 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 481—Chapter 721.

c. The board may select licensees for audit of compliance with the requirements in paragraphs 720.6(4) "a" and "b."

720.6(5) Upon receiving the information and the fee, a two-year license will be administratively issued. In the event the board receives adverse information on the renewal application, the renewal license will be issued but the board may refer the adverse information for further consideration or disciplinary investigation.

720.6(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

720.6(7) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in rule 481—507.17(147,152B). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

720.6(8) Inactive license. A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care 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 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.7(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

720.7(1) Submit a reactivation application and pay the reactivation fee specified in rule 481—507.17(147,152B).

720.7(2) If the license has been inactive for two or more years, submit two completed fingerprint cards to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

720.7(3) Provide verification of current competence to practice 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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 continuing education that conforms to standards defined in rule 481—721.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction within 24 months immediately preceding an application for reactivation.

1. For respiratory care practitioners: 24 hours of continuing education.
2. For polysomnographic technologists: 24 hours of continuing education.
3. For respiratory care and polysomnography practitioners: 24 hours of continuing education, of which at least 8 hours but no more than 12 hours shall be on sleep-related topics.

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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The

applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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 continuing education that conforms to standards defined in rule 481—721.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction within 24 months immediately preceding an application for reactivation.

1. For respiratory care practitioners: 48 hours of continuing education.
2. For polysomnographic technologists: 48 hours of continuing education.
3. For respiratory care and polysomnography practitioners: 48 hours of continuing education of which at least 16 hours but no more than 24 hours shall be on sleep-related topics.

720.7(4) Submit a sworn statement of previous active practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period. Sole proprietors may submit the sworn statement on their own behalf.

[ARC 8073C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—720.8(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—720.14(17A,147,272C) prior to practicing in this state.

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CHAPTER 721
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

[Prior to 4/17/02, see 645—Chapter 261]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 262]

481—721.1(148G,152B,272C) Definitions.

“*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 respiratory care and polysomnography.

“*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 completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

[ARC 8074C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—721.2(148G,152B,272C) Continuing education requirements.

721.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee will be required to complete continuing education that meets the requirements specified in rule 481—721.3(148G,152B,272C).

a. For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education.

b. For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education.

c. For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education.

721.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. For each subsequent license renewal, the new licensee will be required to complete continuing education per biennium.

721.2(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.

721.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the 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.

721.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 8074C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—721.3(148G,152B,272C) Standards.

721.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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(s), location, course title, presenter(s);
- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

721.3(2) *Specific criteria.* Continuing education hours of credit may be obtained by:

- a. Programs/activities of a clinical nature related to the practice of respiratory care or polysomnography.
- b. Program presenters who will receive one hour of credit for each hour of presentation for the first offering of the continuing education program/activity.
- c. Completing academic coursework that meets the criteria set forth in the rules and is accompanied by an official transcript indicating successful completion of the course. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

- d. The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

CERTIFICATIONS:

Advanced Cardiac Life Support	12 hours
Basic Cardiac Life Support—Instructor	8 hours
Basic Cardiac Life Support	6 hours
Neonatal Resuscitation	9 hours
Pediatric Advanced Life Support	14 hours
Mandatory Reporting	4 hours
Certified Pulmonary Function Technologist	8 hours
Registered Pulmonary Function Technologist	12 hours

[ARC 8074C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapters 148G and 152B.

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CHAPTER 722
PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 265]

481—722.1(148G,152B,272C) Definitions.

“Board” means the board of respiratory care and polysomnography.

“Direct supervision” means that the respiratory care and polysomnography practitioner or the polysomnographic technologist providing supervision must be present where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

“General supervision” means that the polysomnographic procedure is provided under a physician’s or qualified health care professional prescriber’s overall direction and control, but the physician’s or qualified health care professional prescriber’s presence is not required during the performance of the procedure.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery, is board-certified, and is actively involved in the sleep medicine center or laboratory.

“Polysomnographic student” means a person who is enrolled in a program approved by the board and who may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as part of the person’s education program.

“Polysomnographic technician” means a person who has graduated from a program approved by the board, but has not yet received an accepted national credential awarded from an examination program approved by the board and who may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to 30 days following graduation while awaiting credentialing examination scheduling and results.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.2(148G,152B,272C) Code of ethics.

722.2(1) The respiratory care practitioner or polysomnographic technologist will practice acceptable methods of treatment and will not practice beyond the competence or exceed the authority vested in the practitioner or technologist by physicians.

722.2(2) The respiratory care practitioner or polysomnographic technologist will continually strive to increase and improve knowledge and skill and will render to each patient the full measure of the practitioner’s or technologist’s ability. All services will be provided with respect for the dignity of the patient, regardless of the patient’s social or economic status or personal attributes or the nature of the patient’s health problems.

722.2(3) The respiratory care practitioner or polysomnographic technologist will be responsible for the competent and efficient performance of assigned duties and will expose incompetent, illegal or unethical conduct of members of the profession.

722.2(4) The respiratory care practitioner or polysomnographic technologist will hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient’s physician.

722.2(5) The respiratory care practitioner or polysomnographic technologist will not accept gratuities and shall guard against conflict of interest.

722.2(6) The respiratory care practitioner or polysomnographic technologist will uphold the dignity and honor of the profession and abide by its ethical principles.

722.2(7) The respiratory care practitioner or polysomnographic technologist will have knowledge of existing state and federal laws governing the practice of respiratory therapy or polysomnography and will comply with those laws.

722.2(8) The respiratory care practitioner or polysomnographic technologist will cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.3(152B,272C) Intravenous administration. Starting an intravenous line or administering intravenous medications is outside the scope of practice of a licensed respiratory care practitioner. However, this rule does not preclude a licensed respiratory care practitioner from performing intravenous administration under the auspices of the employing agency if formal training is acquired and documented.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.4(152B,272C) Setup and delivery of respiratory care equipment.

722.4(1) Unlicensed personnel may deliver, set up, and test the operation of respiratory care equipment for a patient but will not perform any type of patient care. Instruction or demonstration of the equipment will be limited to its mechanical operation (on and off switches, emergency button, cleaning, maintenance). Any instruction or demonstration to the patient regarding the clinical use of the equipment; the fitting of any device to the patient or making any adjustment; or any patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment must be performed by a licensed respiratory therapist or other licensed health care provider allowed by Iowa law.

722.4(2) Respiratory care equipment includes but is not limited to:

- a. Positive airway pressure (continuous positive airway pressure and bi-level positive airway pressure) devices and supplies;
- b. Airway clearance devices;
- c. Invasive and noninvasive mechanical ventilation devices and supplies;
- d. Nasotracheal and tracheal suctioning devices and supplies;
- e. Apnea monitors and alarms and supplies;
- f. Tracheostomy care devices and supplies;
- g. Respiratory diagnostic testing devices and supplies, including but not limited to pulse oximetry, CO2 monitoring, and spirometry devices and supplies; and
- h. Pulse-dose or demand-type oxygen conserving devices or any oxygen delivery systems beyond the capabilities of a simple mask or cannula or requiring particulate or molecular therapy in conjunction with oxygen.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.5(152B,272C) Respiratory care as a practice. “Respiratory care as a practice” means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities that affect the pulmonary system and associated aspects of cardiopulmonary and other systems’ functions and includes but is not limited to the following direct and indirect respiratory care services that are safe, of comfort, aseptic, preventative, and restorative to the patient:

1. Observing and monitoring signs and symptoms, general behavior, reactions, and general physical responses to respiratory care treatment and diagnostic testing.
2. Determining whether the signs, symptoms, behavior, reactions, or general responses exhibit abnormal characteristics.
3. Performing pulmonary diagnostic testing.
4. Analyzing blood gases and respiratory secretions.
5. Measuring and monitoring hemodynamic and physiologic function related to cardiopulmonary pathophysiology.
6. Performing diagnostic and testing techniques in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows; and collection of specimens of blood and from the respiratory tract.
7. Administering:
 - Medical gases, aerosols, and humidification, not including general anesthesia.
 - Lung expansion therapies.
 - Bronchopulmonary hygiene therapies.
 - Hyperbaric therapy.
 - Pharmacologic and therapeutic agents necessary to implement therapeutic, disease prevention, pulmonary rehabilitative, or diagnostic regimens prescribed by a licensed physician, surgeon, or other qualified health care professional prescriber.
8. Maintaining natural and artificial airways.
9. Without cutting tissues, inserting and maintaining artificial airways.
10. Initiating, monitoring, modifying and discontinuing invasive or noninvasive mechanical ventilation.
11. Performing basic and advanced cardiopulmonary resuscitation.
12. Performing invasive procedures that relate to respiratory care.
13. Implementing changes in treatment regimen based on observed abnormalities and respiratory care protocols to include appropriate reporting and referral.
14. Managing asthma, COPD, and other respiratory diseases.
15. Performing cardiopulmonary rehabilitation.

16. Instructing patients in respiratory care, functional training in self-care and home respiratory care management and promoting the maintenance of respiratory care fitness, health, and quality of life.

17. Performing those advanced practice procedures that are permitted within the policies of the employing institution and for which the respiratory care practitioner has documented training and demonstrated competence.

18. Managing the clinical delivery of respiratory care services through the ongoing supervision, teaching, and evaluation of respiratory care.

19. Transcribing and implementing a written, verbal, or telephonic order from a licensed physician, surgeon, or other qualified health care professional prescriber pertaining to the practice of respiratory care.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.6(148G,272C) Practice of polysomnography.

722.6(1) The practice of polysomnography consists of but is not limited to the following tasks as performed for the purpose of polysomnography, under the general supervision of a licensed physician or qualified health care professional prescriber:

a. Monitoring, recording, and evaluating physiologic data during polysomnographic testing and review during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying any of the following techniques, equipment, or procedures:

(1) Noninvasive continuous, bilevel positive airway pressure, or adaptive servo-ventilation titration on spontaneously breathing patients using a mask or oral appliance; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

(2) Supplemental low-flow oxygen therapy of less than six liters per minute, utilizing a nasal cannula or incorporated into a positive airway pressure device during a polysomnogram.

(3) Capnography during a polysomnogram.

(4) Cardiopulmonary resuscitation.

(5) Pulse oximetry.

(6) Gastroesophageal pH monitoring.

(7) Esophageal pressure monitoring.

(8) Sleep stage recording using surface electroencephalography, surface electrooculography, and surface submental electromyography.

(9) Surface electromyography.

(10) Electrocardiography.

(11) Respiratory effort monitoring, including thoracic and abdominal movement.

(12) Plethysmography blood flow monitoring.

(13) Snore monitoring.

(14) Audio and video monitoring.

(15) Body movement monitoring.

(16) Nocturnal penile tumescence monitoring.

(17) Nasal and oral airflow monitoring.

(18) Body temperature monitoring.

b. Monitoring the effects that a mask or oral appliance used to treat sleep disorders has on sleep patterns; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

c. Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted.

d. Analyzing and scoring data collected during the monitoring described in this subrule for the purpose of assisting a physician in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction.

e. Implementation of a written or verbal order from a physician or qualified health care professional prescriber to perform polysomnography.

f. Education of a patient regarding the treatment regimen that assists the patient in improving the patient's sleep.

g. Use of any oral appliance used to treat sleep-disordered breathing while under the care of a licensed polysomnographic technologist during the performance of a sleep study, as directed by a licensed dentist.

722.6(2) Before providing any sleep-related services, a polysomnographic technician or polysomnographic student who is obtaining clinical experience will give notice to the board that the person is working under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist in order to

gain the experience to be eligible to sit for a national certification examination. A badge that appropriately identifies the person is to be worn while providing such services.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.7(148G,152B,272C) Students.

722.7(1) A student who is enrolled in an approved respiratory care, sleep add-on, polysomnography training program, or electroneurodiagnostic program and is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 and chapter 148G under the direct and immediate supervision of a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner for the duration of the program, but not to exceed the duration of the program.

722.7(2) Direct and immediate supervision of a respiratory care or polysomnographic student means that the licensed respiratory care practitioner or polysomnographic technologist will:

- a. Be continuously on site and present in the department or facility where the student is performing care;
- b. Be immediately available to assist the person being supervised in the care being performed; and
- c. Be responsible for care provided by students.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

481—722.8(148G,272C) Location of polysomnography services. The practice of polysomnography is to take place only in a facility that is accredited by a nationally recognized sleep medicine laboratory or center accrediting agency, in a facility operated by a hospital or a hospital licensed under Iowa Code chapter 135B, or in a patient's home pursuant to rules adopted by the board; provided, however, that the scoring of data and the education of patients may take place in another setting.

[ARC 8076C, IAB 6/26/24, effective 7/31/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 148G, 152B, and 272C.

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CHAPTER 723
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 266]

481—723.1(17A,272C) Board of respiratory care and polysomnography adoption of uniform and model rules.

The board hereby adopts by reference the following:

723.1(1) to **723.1(9)** Reserved.

723.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 724 to 739
Reserved

BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY

CHAPTER 740

LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 300]

481—740.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“*ABA*” means the American Board of Audiology.

“*ASHA*” means the American Speech-Language Hearing Association.

“*Assistant*” means an unlicensed person who works under the supervision of an Iowa-licensed speech pathologist or audiologist and meets the minimum requirements set forth in these rules.

“*Audiologist*” means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination, selection and use of appropriate hearing devices.

“*Board*” means the board of speech pathology and audiology.

“*Full-time*” means a minimum of 30 hours per week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

“*License expiration date*” means December 31 of odd-numbered years.

“*On site*” means:

1. To be continuously on site and present in the department or facility where services are being provided;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—740.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(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.

“*Speech pathologist*” means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, swallowing, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.2(147) Requirements for licensure. The following criteria will apply to licensure:

740.2(1) Applicants will submit a completed online licensure application and pay the required fee.

740.2(2) The application will include:

- a. An official copy of a current ASHA certificate of clinical competence; or
- b. Verification of current ABA certification; or
- c. Submission of the following:
 - (1) Official copies of academic transcripts sent directly from the school to the board showing proof of completion of not less than 400 hours of supervised clinical training;
 - (2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master’s degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and
 - (3) Results of the Praxis Examination.

740.2(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

740.2(4) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify

at least five years of an independent license as described in subrule 240.10(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.3(147) Educational qualifications.

740.3(1) The applicant shall possess the following:

- a. A master's degree from an accredited school, college or university with a major in speech pathology; or
- b. A master's or doctoral degree from an accredited school, college or university with a major in audiology.

740.3(2) Foreign-trained speech pathologists and audiologists will provide an equivalency evaluation at the licensee's expense of the licensee's educational credentials by one of the following: International Education Research Foundation, Inc., Credentials Evaluation Service. The professional curriculum must be equivalent to that stated in these rules.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.4(147) Examination requirements. The examination required by the board will be the Praxis Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. The applicant will make arrangements to take the Praxis Examination in speech pathology or audiology and pay all expenses associated with taking the examination. The applicant will have the examination scores sent directly to the board from the Educational Testing Service.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.5(147) Speech therapy and audiology compact. The rules of the speech therapy and audiology compact commission are incorporated by reference to Iowa Code section 147F.1. A speech therapist or audiologist may practice speech therapy or audiology in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the speech pathology and audiology compact commission.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.6(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed at the discretion of the board. The license shall be designated "temporary clinical license in speech pathology" or "temporary clinical license in audiology."

740.6(1) A speech pathology applicant will submit the following to the board:

- a. Evidence of supervision by a speech pathologist with an active, current Iowa license in good standing;
- b. A completed application form and the temporary clinical license fee;
- c. An official copy of the transcript sent directly from the school to the board;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and
- e. Results of the Praxis Examination.

740.6(2) An audiology applicant or an applicant completing a doctoral externship must submit the following to the board:

- a. Evidence of supervision by an audiologist with an active, current Iowa license in good standing. The applicant completing an audiology doctoral externship must show evidence of on-site supervision;
- b. A completed application form and the temporary clinical license fee;
- c. An official copy of the transcript, sent directly from the school to the board;
- d. Official verification of completion of not less than 400 hours of supervised clinical training in an accredited college or university; and
- e. Results of the Praxis Examination.

740.6(3) The plan for supervised clinical experience must be approved by the board before the applicant starts practice and shall:

- a. Include at least nine months of full-time clinical experience, or equivalent;

b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate. If the applicant is being supervised by more than one individual, each supervisor must submit a supervised clinical experience plan for approval. If there is a change in the supervised clinical experience plan at any time during the supervised clinical experience, the licensee must contact the board for approval within 30 days of the change;

c. Be kept by the supervisor for two years from the last date of the clinical experience; and

d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology upon the applicant's successful completion of the nine months of full-time clinical experience. If the applicant was supervised by more than one individual, each supervisor must submit a supervised clinical experience report.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.7(147) Temporary permit.

740.7(1) A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

a. For a period not to exceed three months;

b. By submitting a letter to support the need for such a permit;

c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;

d. By submitting the documentation prior to the date the applicant intends to begin practice; and

e. By submitting the temporary permit fee.

740.7(2) The applicant shall receive a final determination from the board regarding the application for a temporary permit.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.8(147) Use of assistants. A licensee will, in the delivery of professional services, utilize assistants only to the extent provided in these rules. Such assistants will use the title provided by these rules.

740.8(1) Duties.

a. *Speech pathology assistant I.* A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.

b. *Speech pathology assistant II.* A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

c. *Audiology assistant I.* An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.

d. *Audiology assistant II.* An audiology assistant II is trained specifically for a single task for screening.

740.8(2) Minimum requirements.

a. A speech pathology assistant I or II or audiology assistant I will satisfy the following minimum requirements:

(1) Reach the age of majority;

(2) Complete a high school education, or its equivalent; and

(3) Complete one of the following:

1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks that the assistant will be performing; or

2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

b. An audiology assistant II will satisfy the following requirements:

(1) Reach the age of majority.

(2) Complete a high school education, or its equivalent.

(3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task that the assistant will be performing.

740.8(3) Utilization. Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

a. Documentation that the assistant meets minimum requirements;

b. A written plan of the activities and supervision that will be kept by the licensee supervising the assistant. This supervision will include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level

II audiology assistants will be supervised 10 percent of the time. At least half of that time will be direct on-site observation with the other portion provided as time interpreting results;

- c. A listing of the facilities where the assistant will be utilized; and
- d. A statement, signed by the licensee and the assistant, acknowledging the licensee and the assistant have read the rules pertaining to assistants.

740.8(4) *Maximum number of assistants.* A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

740.8(5) *Supervisor responsibilities.* A licensee who utilizes an assistant will have the following responsibilities:

- a. To be legally responsible for the actions of the assistant in assigned duties with a client;
- b. To make all professional decisions relating to the management of a client;
- c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;
- d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing direct observation and supervision of the activities of the assistant; and
- e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.9(147) Licensure by endorsement.

740.9(1) The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction.

740.9(2) An applicant for licensure by endorsement will provide verification they meet the requirements of rule 481—740.2(147).

740.9(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.10(147) License renewal.

740.10(1) The biennial license renewal period for a license to practice speech pathology or audiology will begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

740.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

740.10(3) A licensee seeking renewal will:

a. Meet the continuing education requirements of rule 481—742.2(147) and the mandatory reporting requirements of subrule 740.10(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.

740.10(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children, dependent adults, or both in the scope of a licensee's professional practice will complete the applicable department of health and human services' training relating to the identification and reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraphs 740.11(4) "a" and "b."

740.10(5) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

740.10(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

740.10(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 481—subrule 507.20(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

740.10(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 until the license is reactivated.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.11(17A,147,272C) License reactivation. To apply for reactivation of an inactive license:

740.11(1) Submit a completed reactivation application and pay the nonrefundable application fee.

740.11(2) Provide verification of current competence to practice speech pathology and audiology 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 from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 26 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 from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 52 hours of continuing education within two years of application for reactivation; or

(3) Verification of passing the Praxis Examination in speech pathology or audiology within the last two years prior to application for reactivation.

[ARC 7825C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—740.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing speech pathology and audiology in this state.

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[◇] Two or more ARCs

CHAPTER 741
PRACTICE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 301]

481—741.1(147) Telehealth visits. A licensee may provide speech pathology or audiology services to a patient utilizing a telehealth visit if the services are provided in accordance with the following:

741.1(1) “Telehealth visit” means the provision of speech pathology or audiology services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location during the appointment.

741.1(2) A licensee engaged in a telehealth visit will utilize technology that is secure and HIPAA-compliant (Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat 1936), and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an appointment or to communicate with a patient between appointments.

741.1(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person speech pathology or audiology services. A licensee will not utilize a telehealth visit if the standard of care for the particular speech pathology or audiology service cannot be met using technology.

741.1(4) Prior to the first telehealth visit, a licensee will obtain informed consent from the patient specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent will specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide speech pathology or audiology services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

741.1(5) A licensee will only provide speech pathology or audiology services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

741.1(6) A licensee will identify in the clinical record when speech pathology or audiology services are provided utilizing a telehealth visit.

741.1(7) Speech pathology or audiology services in Iowa through telephonic, electronic, or other means constitute the practice of speech pathology or audiology and require Iowa licensure, regardless of the location of the speech/language pathologist or audiologist.

This rule is intended to implement Iowa Code chapters 147 and 154F.

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CHAPTER 742
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS
AND AUDIOLOGISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 303]

481—742.1(147) Definitions. For the purpose of these rules, the following definitions will apply:

“AAA” means the American Association of Audiology.

“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.

“ASHA” means the American Speech-Language Hearing Association.

“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 speech pathology and audiology.

“Continuing education” means an approved program/activity that is directly related to the sciences or contemporary clinical practice of audiology, speech-language pathology and speech-language-hearing science and whose content and focus are beyond the basic preparation required for entry into the professions.

“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.

“License” means license to practice.

“Licensee” means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

[ARC 7827C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—742.2(147) Continuing education requirements.

742.2(1) The biennial continuing education compliance period will run concurrently with each two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, a person who is licensed to practice as a speech pathology or audiology licensee in this state will be required to complete a minimum of 26 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession. Continuing education hours do not carry over.

742.2(2) Requirements of new licensees. Those persons licensed for the first time will 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.

742.2(3) Hours of continuing education credit may be obtained by participation in an approved program or activity. Such programs and activities may take place individually or in group settings including in-person conferences, journal readings, teleconferences, videoconferences and online programs or activities as long as such programs and activities meet the criteria specified in the definition of continuing education in rule 481—742.1(147).

742.2(4) No hours of continuing education will 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.

742.2(5) The licensee is responsible for the cost of continuing education.

[ARC 7827C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—742.3(147,272C) Standards.

742.3(1) General criteria. A continuing education program or activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education program or activity:

- a. Meets the definition of continuing education as defined in rule 481—742.1(147);
- b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- c. Fulfills state program goals, objectives, or both; and
- d. Provides proof of attendance, including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

742.3(2) Specific criteria.

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information that would enable expansion of knowledge in the basic communication processes.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board will accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions that apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; professional ethics; clinical supervision; counseling; and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. A licensee may elect to take the Praxis Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee will have the results of the examination sent to the board by the agency administering the examination.

b. A licensee may present professional programs that meet the criteria in this rule. Two hours of credit will be allowed for each hour of newly developed presentation material. A maximum of 16 hours may be obtained per biennium. A course schedule or brochure must be maintained for audit.

c. A combined total of six hours per biennium may be used for the following activities:

- (1) Government regulations;
- (2) CPR, child abuse and dependent adult abuse; and
- (3) A maximum of two hours may be used for business-related topics.

d. An applicant will provide official transcripts indicating successful completion of academic courses that apply to the field of speech pathology and audiology in order to receive the following continuing education credits:

- 1 academic semester hour = 15 continuing education hours of credit
- 1 academic trimester hour = 12 continuing education hours of credit
- 1 academic quarter hour = 10 continuing education hours of credit

e. Continuing education credit may be earned by participation in continuing education programs and activities that meet the criteria in this rule and that are completed through journal readings, teleconference or videoconference participation, and online program participation. In addition, such programs and activities must include a posttest that the participant must pass in order to receive continuing education credit.

f. Continuing education will be obtained by attending a program that meets the criteria in subrule 742.3(1) including but not limited to continuing education programs offered by AAA and ASHA. Other individuals or groups may offer continuing education programs that meet the criteria in rule 481—742.3(147,272C) through one of the following organizations:

- (1) National, state or local associations of speech pathology and audiology;
- (2) Schools and institutes of speech pathology and audiology;
- (3) Universities, colleges or community colleges.

Continuing education must be offered by or approved in advance of delivery by the organizations stated above.

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CHAPTER 743

DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/9/87, see Health Department [470], Ch 156]

[Prior to 9/19/01, see 645—Chapter 301]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 304]

481—743.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 481—Chapter 504.

743.1(1) Violation of the following code of ethics:

- a.* Licensees will provide ethical, professional services, conduct research with honesty and compassion, and respect the dignity, worth and rights of those served.
- b.* Claims of expected clinical results will be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.
- c.* Records will be adequately maintained for the period of time required by applicable state and federal laws.
- d.* Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.
- e.* Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.
- f.* Licensees who engage in research will comply with all institutional, state, and federal regulations that address any aspects of research, including those that involve human participants and animals, such as those promulgated in the current Responsible Conduct of Research by the U.S. Office of Research Integrity.
- g.* Individuals in administrative or supervisory roles will not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff members' independent and objective professional judgment.
- h.* Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, age, ethnicity, gender identity/gender expression, sexual orientation, national origin, disability, culture, language or dialect.
- i.* Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances will be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.
- j.* Licensees who dispense products to persons served professionally will provide clients with freedom of choice for the source of services and products.
- k.* Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420 (2022), "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421 (2022), "Hearing aid devices; conditions for sale."
- l.* Licensees will comply with universal newborn and infant hearing screening requirements within Iowa Code section 135.131 and 641—Chapter 3.

743.1(2) Reserved.

This rule is intended to implement Iowa Code chapters 147 and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 744
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 305]

481—744.1(17A,272C) Board of speech pathology and audiology adoption of uniform and model rules. The board hereby adopts by reference the following:

744.1(1) to **744.1(9)** Reserved.

744.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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CHAPTERS 745 to 759
Reserved

BOARD OF OPTOMETRY

CHAPTER 760

LICENSURE OF OPTOMETRISTS

[Prior to 6/13/01, see 645—Chapter 180]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 180]

481—760.1(154) Definitions. For purposes of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*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.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*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 481—760.5(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(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.

“*TPA*” means therapeutic pharmaceutical agents.

[ARC 7974C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—760.2(154) Requirements for licensure.

760.2(1) The following criteria applies to licensure:

a. Submit a completed online application and pay the non-refundable licensure fee specified in rule 481—507.12(147,154).

b. Applicants will submit proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154 including official copies of academic transcripts sent directly to the board from an accredited school or college of optometry.

c. Applicants will submit proof of passing all current NBEO examinations.

d. An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

760.2(2) Reserved.

[ARC 7974C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—760.3(154) Licensure by endorsement.

760.3(1) Applicants who have been licensed as an optometrist in another state may apply for licensure by endorsement by submitting the following:

- a. Verification the applicant meets the requirements of rule 481—760.2(154); and
- b. Verification of current competence to practice as an optometrist by satisfying one of the following criteria:
 - (1) Current CELMO certification;
 - (2) Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;
 - (3) Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period;
 - (4) Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
 - (5) Passing the NBEO examination during the preceding two-year period.

760.3(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7974C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—760.4(154) License renewal.

760.4(1) The biennial license renewal period for a license to practice optometry will 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.

760.4(2) An individual who was issued a license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

760.4(3) A licensee applying for renewal will:

a. Meet the continuing education requirements of rule 481—761.2(154) and the mandatory reporting requirements of subrule 760.5(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.

760.4(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children, dependent adults, or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training relating to the identification reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in 481—Chapter 761.

760.4(5) A two-year license will be issued after the requirements of the rule are met. If the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

760.4(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

760.4(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 481—subrule 507.12(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

760.4(8) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

[ARC 7974C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—760.5(17A,147,272C) License reactivation. To apply for reactivation of an inactive license:

760.5(1) Submit a completed online reactivation application and payment of the non-refundable application fee.

760.5(2) If licensed in another jurisdiction, provide verification from the jurisdiction in which the licensee has most recently been licensed showing the licensee's name, date of initial licensure, current licensure status, and any disciplinary action taken against the licensee.

760.5(3) Verification of current competence to practice as an optometrist by satisfying one of the following criteria:

- a. Practice as an optometrist for a minimum of 2,080 hours during the preceding two-year period;
- b. Employment as a faculty member teaching optometry in an accredited school of optometry for at least one academic year during the preceding two-year period;
- c. Completion of a minimum of 50 hours of continuing education during the preceding two-year period; or
- d. Passing the NBEO examination during the preceding two-year period.

[ARC 7974C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—760.6(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as an optometrist in this state.

[ARC 7974C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

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◇ Two or more ARCs

CHAPTER 761
CONTINUING EDUCATION FOR OPTOMETRISTS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 181]

481—761.1(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.

“*Distance learning*” means a format that provides one-way content to the licensee without immediate interaction with the instructor, including but not limited to correspondence courses, online courses and local study group programs.

“*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.

“*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.

“*Interactive online CE*” means the format allows for immediate interaction and feedback between the audience and the instructor.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an optometrist in the state of Iowa.

[ARC 7975C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—761.2(154) Continuing education requirements.

761.2(1) The biennial continuing education compliance period will 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 will be required to complete a minimum of 50 hours of continuing education that meets the standards in this chapter. Continuing education hours cannot be carried over to the next biennium.

761.2(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.

761.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

761.2(4) The licensee is responsible for the cost of continuing education.

[ARC 7975C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—761.3(154,272C) Standards.

761.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;

b. Is conducted by individuals who have specialized education and training in the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

c. Fulfills stated program goals, objectives, or both; and

d. Provides proof of 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.

761.3(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 any accredited department of ophthalmology.

(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 (COPE) committee.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Five hours of credit for distance learning.

(2) Fifteen hours of credit for interactive online CE.

(3) Twenty hours of credit for postgraduate study courses as referenced in subparagraph 761.3(2)"a"(2).

c. Required continuing education hours. Licensees shall provide proof of continuing education in all of 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.

(2) Training on child abuse and dependent adult abuse identification and reporting through the department of health and human services for all licensees who examine, attend, counsel or treat children or dependent adults in the scope of the professional practice. Initial two-hour courses need to be taken with six months of employment. One-hour recertification training needs to be done every three years.

(3) A minimum of one hour of continuing education per renewal period regarding guidelines for prescribing opioids, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options. Credit will be granted for up to two hours per renewal period. If the continuing education did not cover the United States Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, the licensee shall read the guideline prior to license renewal. "Opioid" means any drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

d. Current CELMO certification meets the continuing education requirements for licensees.

[ARC 7975C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 154.

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◇ Two or more ARCs

CHAPTER 762
PRACTICE OF OPTOMETRISTS

[Prior to 8/7/02, see 645—179.4(154), 179.5(154,272C), 179.7(154) and 179.8(155A)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 182]

481—762.1(154) Code of ethics. The board hereby adopts by reference the Code of Ethics of the American Optometric Association as published by the American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141, modified June 2007.

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—762.2(154,272C) Recordkeeping. Optometrists will maintain patient records in a manner consistent with the protection of the welfare of the patient. Records will be permanent, timely, accurate, legible, and easily understandable.

762.2(1) Optometrists will maintain optometry records for each patient. The records will 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 emergency contact.

b. Optometry and medical history. Optometry records will include information from the patient or the patient's parent or guardian regarding the patient's optometric and medical history. The information will include sufficient data to support the recommended treatment plan.

c. Patient's reason for visit. Optometric records will include the patient's stated visual health care reasons for visiting the optometrist.

d. Clinical examination progress notes. Optometric records will 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 will include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

762.2(2) Retention of records. An optometrist will maintain a patient's record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors will 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 will be maintained to ensure the safety of records from destructive elements.

762.2(3) Electronic recordkeeping. 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 will keep either a duplicate hard-copy record or a back-up unalterable electronic record.

762.2(4) Correction of records. Notations will 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.

762.2(5) Confidentiality and transfer of records. Optometrists will 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 will 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).

762.2(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, will 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 will encourage patients to seek the services of another licensee. The licensee will 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.

762.2(7) Nothing stated in these rules will 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.

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—762.3(154) Furnishing prescriptions. Before a licensed optometrist provides a spectacle or contact lens prescription to a patient, the eye examination record will include best-corrected visual acuity with ophthalmic lenses or contact lenses in the lens powers determined by refraction. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

762.3(1) A contact lens prescription will contain the following information:

- a. Date of issuance;
- b. Name and date of birth of patient for whom the contact lens or 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.

762.3(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 will provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens. A licensed optometrist may refuse to provide a copy of the contact lens prescription if the patient has not paid the fees associated with the examination from which the prescription was generated including applicable contact lens fitting fees.

b. A practitioner choosing to issue an oral prescription will 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 will be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

762.3(3) An ophthalmic spectacle lens prescription will contain the following information:

- a. Date of issuance;
- b. Name and date of birth of the patient for whom the ophthalmic lens or 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.

A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

762.3(4) Release of ophthalmic lens prescription.

a. The ophthalmic lens prescription will be furnished upon request at no additional charge to the patient. A licensed optometrist may refuse to provide a copy of the ophthalmic lens prescription if the patient has not paid the fees associated with the examination from which the prescription was generated.

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 will be in written format, according to Iowa Code section 147.109(1).

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—762.4(155A) Prescription drug orders. Each prescription drug order furnished by an optometrist in this state will meet the following requirements:

762.4(1) Written prescription drug orders will contain:

- a. The date of issuance;
- b. The name and date of birth 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.

762.4(2) The practitioner issuing oral prescription drug orders will furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

762.4(3) Prior to prescribing any controlled substance, an optometrist will review the patient's information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility care.

762.4(4) Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code section 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—762.5(154) Use of injectables. A licensed optometrist shall not administer any injection prior to receiving approval from the board. A licensed optometrist may administer only the following injections:

762.5(1) Subconjunctival injections for the medical treatment of the eye.

762.5(2) Intralesional injections for the treatment of chalazia.

762.5(3) Botulinum toxin to the muscles of facial expression innervated by the facial nerve, including for cosmetic purposes.

762.5(4) Injections to counteract an anaphylactic reaction.

762.5(5) Local anesthetics prior to a minor surgical procedure authorized by this chapter.

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—762.6(154) Education and training approval.

762.6(1) The board will not approve the use of injections other than to counteract an anaphylactic reaction unless the licensed optometrist demonstrates to the board sufficient educational or clinical training from a college or university accredited by a regional or professional accreditation organization that is recognized or approved by the Council for Higher Education Accreditation or by the United States Department of Education, or clinical training equivalent to clinical training offered by such an institution.

762.6(2) A licensed optometrist who completes the requirements of rule 481—762.7(154) is deemed approved by the board for use of injectables as outlined in this chapter.

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—762.7(154) Education and training. In order to use injections, a licensed optometrist will be able to show proof of completion of the following requirements for board approval:

762.7(1) Be fully licensed and in good standing within the state of Iowa as a licensed optometrist.

762.7(2) Have completed a total of 24 hours of approved educational training pertaining to injections.

a. At least 4 hours of the 24 hours must be clinical training.

b. At least 5 hours of the 24 hours must pertain to the administration and side effects of injection treatment for botulinum toxin and chalazia.

[ARC 7976C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 154 and 155A.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 763
DISCIPLINE FOR OPTOMETRISTS

[Prior to 6/13/01, see 645—Ch 180]

[Prior to 8/7/02, see 645—Ch 182]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 183]

481—763.1(154,272C) Grounds for discipline.

763.1(1) The board may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in rule 481—Chapter 504.

763.1(2) The licensee prescribes any controlled substance in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

This rule is intended to implement Iowa Code chapters 147, 154 and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 764
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 184]

481—764.1(17A,272C) Board of optometry adoption of uniform and model rules. The board hereby adopts by reference the following:

764.1(1) to **764.1(9)** Reserved.

764.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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CHAPTERS 765 to 779
Reserved

BOARD OF PHYSICIAN ASSISTANTS

CHAPTER 780

LICENSURE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.2(148C) to 645—325.5(148C) and 645—325.16(148C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 326]

481—780.1(148C) Definitions.

“Active license” means a license that is current and has not expired.

“Approved program” means a program for the education of physician assistants which has been accredited by the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

“Board” means the board of physician assistants.

“CME” means continuing medical education.

“Collaboration” means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient’s condition; the education, competencies, and experience of the physician assistant; and the standard of care.

“Department” means the department of inspections, appeals, and licensing.

“Direction” means authoritative policy or procedural guidance for the accomplishment of a function or activity.

“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 a person licensed by the board as a physician assistant to provide medical services under the supervision of one or more physicians.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

“Locum tenens” means the temporary substitution of one licensed physician assistant for another.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants 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.

“NCCPA” means the National Commission on Certification of Physician Assistants.

“Opioid” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

“Physician assistant” or *“PA”* means a person licensed as a physician assistant by the board.

“Prescription monitoring program database” or *“PMP database”* means the Iowa prescription monitoring program database administered by the Iowa board of pharmacy pursuant to Iowa Code chapter 124, subchapter VI, and 657—Chapter 37.

“Reactivate” or *“reactivation”* means the process as outlined in rule 481—780.19(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 481—506.31(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.

“Remote medical site” means a medical clinic for ambulatory patients which is more than 30 miles away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time the site is open. “Remote medical site” does not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided, such as a diet center, free clinic, site for athletic physicals, or a jail facility.

“Supervising physician” means a physician who supervises the medical services provided by the physician assistant consistent with the physician assistant’s education, training, or experience and who accepts ultimate responsibility for the medical care provided by the physician-physician assistant team.

“Supervision” means that a supervising physician retains ultimate responsibility for patient care, although a physician need not be physically present at each activity of the physician assistant or be specifically consulted before each delegated task is performed. Supervision shall not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C.

“Supply prescription drugs” means to deliver to a patient or the patient’s representative a quantity of prescription drugs or devices that are properly packaged and labeled.

[ARC 4299C, IAB 2/13/19, effective 3/20/19; ARC 5177C, IAB 9/9/20, effective 10/14/20; Editorial change: IAC Supplement 9/18/24]

481—780.2(148C) Requirements for licensure.

780.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s website (www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Physician Assistants, Professional Licensure Division, Iowa Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321-1270.

b. An applicant shall complete the application form according to the instructions contained in the application.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Board of Physician Assistants. The fees are nonrefundable.

d. Each applicant shall provide official copies of academic transcripts that have been sent to the board directly from an approved program for the education of physician assistants. EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

e. An applicant shall provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency.

f. Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

g. In lieu of paragraphs “d” and “e,” an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

780.2(2) 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.

780.2(3) 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. Maintained upon written request of the candidate.

[Editorial change: IAC Supplement 9/18/24]

481—780.3(148C) Temporary licensure.

780.3(1) A temporary license may be issued for an applicant who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

780.3(2) The applicant must comply with subrule 780.2(1), with the exception of paragraphs “d” and “e.”

780.3(3) A temporary license shall be valid for one year from the date of issuance.

780.3(4) The temporary license shall be renewed only once upon the applicant’s showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination shall be submitted to the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

780.3(5) If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

780.3(6) There is no additional fee for converting temporary licensure to permanent licensure.

780.3(7) The applicant shall ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

[Editorial change: IAC Supplement 9/18/24]

481—780.4(148C) Licensure by endorsement. An applicant who has been licensed under the laws of another jurisdiction shall file an application for licensure by endorsement. An applicant shall:

780.4(1) Submit to the board a completed application according to the instructions on the application.

780.4(2) Pay the nonrefundable licensure fee.

780.4(3) Provide an official copy of the transcript sent directly to the board from an approved program for the education of physician assistants or qualify for the exception stated in paragraph 326.2(1) “d.”

780.4(4) Provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency. Additionally, provide one of the following documents:

a. Copy of current certification from the NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency; or

b. Proof of completion of 100 CME hours for each biennium since initial certification.

780.4(5) Provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

780.4(6) Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

780.4(7) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 5752C, IAB 7/14/21, effective 8/18/21; ARC 6896C, IAB 2/22/23, effective 3/29/23; Editorial change: IAC Supplement 9/18/24]

481—780.5 Reserved.

481—780.6(148C) Examination requirements. The applicant for licensure as a physician assistant shall successfully pass the certifying examination conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board of physician assistants.

[ARC 5177C, IAB 9/9/20, effective 10/14/20; Editorial change: IAC Supplement 9/18/24]

481—780.7(148C) Educational qualifications. An applicant for licensure as a physician assistant shall submit official copies of academic transcripts from an approved program for education of physician assistants, or the applicant shall qualify for the exception stated in paragraph 780.2(1) “d.”

[Editorial change: IAC Supplement 9/18/24]

481—780.8(148C) Supervision requirements.

780.8(1) Notification requirements. Physician assistants shall use the board-approved forms to notify the board of the identity of their supervising physicians at the following times:

a. Prior to beginning practice in Iowa.

b. At the time of license renewal. The physician assistant shall notify the board of the identity of each of the physician assistant’s supervising physicians and of any change in the status of the supervisory relationships during the physician assistant’s current biennium. In addition, the physician assistant shall maintain a list of supervising physicians to provide to the board upon request.

c. At the time of license reactivation.

780.8(2) The physician assistant shall maintain documentation of current supervising physicians, which shall be made available to the board upon request.

780.8(3) A physician assistant who provides medical services shall be supervised by one or more physicians; but a physician shall not supervise more than five physician assistants at the same time.

780.8(4) It shall be the responsibility of the physician assistant and a supervising physician to ensure that the physician assistant is adequately supervised. Upon agreeing to supervise a physician assistant, a supervising physician will be advised that the physician’s name will be listed with the board as a supervising physician. In regard to scheduling, the physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or these rules, and must be in compliance with the requirement that no more than five physician assistants shall be supervised by a physician at the same time, pursuant to subrule 780.8(3). The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

a. Patient care provided by the physician assistant shall be reviewed with a supervising physician on an ongoing basis as indicated by the clinical condition of the patient. Although every chart need not be signed nor every visit

reviewed, nor does the supervising physician need to be physically present at each activity of the physician assistant, it is the responsibility of the supervising physician and physician assistant to ensure that each patient has received the appropriate medical care.

b. Patient care provided by the physician assistant may be reviewed with a supervising physician in person, by telephone or by other telecommunicative means.

c. When signatures are required, electronic signatures are allowed if:

(1) The signature is transcribed by the signer into an electronic record and is not the result of electronic regeneration; and

(2) A mechanism exists allowing confirmation of the signature and protection from unauthorized reproduction.

d. When the physician assistant is being trained to perform new medical procedures, the training shall be carried out under the supervision of a physician or another qualified individual. Upon completing the supervised training, a physician assistant may perform the new medical procedures if delegated by a supervising physician, except as otherwise provided in Iowa Code chapter 148C or these rules. New medical procedures may be delegated to a physician assistant after a supervising physician determines that the physician assistant is competent to perform the task.

[ARC 0462C, IAB 11/28/12, effective 1/2/13; Editorial change: IAC Supplement 9/18/24]

481—780.9(148C) License renewal.

780.9(1) The biennial license renewal period for a license to practice as a physician assistant shall begin on October 1 and end on September 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.

780.9(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 date two years later.

780.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—782.2(148C) and the mandatory reporting requirements of subrule 780.9(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.

780.9(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 training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years, or condition(s) for waiver of this requirement as identified in paragraph 780.9(4) "e."

b. A licensee who, in the course of employment responsibilities, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 780.9(4) "e."

c. The course(s) shall be the curriculum provided by the Iowa department of human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 780.9(4) "a" through "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.

f. The board may select licensees for audit of compliance with the requirements in paragraphs 780.9(4) "a" through "e."

780.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

780.9(6) A person licensed to practice as a physician assistant shall keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

780.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.14(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

780.9(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 physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant 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 9665B, IAB 8/10/11, effective 9/14/11; ARC 4952C, IAB 2/26/20, effective 4/1/20; ARC 5752C, IAB 7/14/21, effective 8/18/21; Editorial change: IAC Supplement 9/18/24;]

481—780.10 to 780.14 Reserved.

481—780.15(148C,88GA,ch1020) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words “physician assistant” after the person’s name or signify the same by the use of the letters “PA.” A person who meets the qualifications for licensure under Iowa Code chapter 148C but does not possess a current license may use the title “PA” or “physician assistant” but may not act or practice as a physician assistant unless licensed under Iowa Code chapter 148C.

[ARC 5177C, IAB 9/9/20, effective 10/14/20; Editorial change: IAC Supplement 9/18/24]

481—780.16(148C) Address change. The physician assistant shall notify the board of any change in permanent address within 30 days of its occurrence.

[Editorial change: IAC Supplement 9/18/24]

481—780.17(148C) Student physician assistant.

780.17(1) Any person who is enrolled as a student in an approved program shall comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

780.17(2) Notwithstanding any other provisions of these rules, a student may perform medical services when they are rendered within the scope of an approved program.

[Editorial change: IAC Supplement 9/18/24]

481—780.18(148C) Recognition of an approved program. The board shall recognize a program for education and training of physician assistants if it is accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

This rule is intended to implement Iowa Code section 148C.2.

[ARC 5177C, IAB 9/9/20, effective 10/14/20; Editorial change: IAC Supplement 9/18/24]

481—780.19(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

780.19(1) Submit a reactivation application on a form provided by the board.

780.19(2) Pay the reactivation fee that is due as specified in 481—Chapter 507.

780.19(3) Provide verification of current competence to practice as a physician assistant 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 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

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 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification.

[ARC 5177C, IAB 9/9/20, effective 10/14/20; Editorial change: IAC Supplement 9/18/24]

481—780.20(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 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—780.19(17A,147,272C) prior to practicing as a physician assistant in this state.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

¹ Effective date of 326.1, "remote medical site," delayed 70 days by the Administrative Rules Review Committee at its meeting held June 7, 2004.

CHAPTER 781
PRACTICE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.6(148C) to 645—325.9(148C) and 645—325.18(148C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 327]

481—781.1(148C,88GA,ch1020) Duties. The medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including but not limited to offices, ambulatory clinics, hospitals, patient's homes, extended care facilities, and nursing homes.

781.1(1) A physician assistant's duties relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices include all of the following:

- a. Administering any drug.
- b. Prescribing, dispensing, ordering, administering, and procuring drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including but not limited to durable medical equipment, nutrition, blood and blood products, and diagnostic support services, including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include Schedule II through V substances, as described in Iowa Code chapter 124, and all legend drugs.
- c. A physician assistant may prescribe drugs and medical devices subject to all of the following conditions:
 - (1) The physician assistant will have passed the national certifying examination conducted by the National Commission on Certification of Physician Assistants or its successor examination approved by the board.
 - (2) The physician assistant must comply with appropriate federal and state regulations.
 - (3) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal Drug Enforcement Administration.
 - (4) The physician assistant may prescribe or order Schedule II controlled substances that are listed as depressants in Iowa Code chapter 124.
 - (5) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings, including but not limited to hospitals, health care facilities, health care institutions, hospice, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.
 - (6) A physician assistant may request, receive, and supply sample drugs and medical devices.
- d. Supplying properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interest of the patient.
 - (1) If the physician assistant is the prescriber of the medications supplied pursuant to this paragraph, the medications supplied will be for the purpose of accommodating the patient and will not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician assistant.
 - (2) A nurse or staff assistant may assist the physician assistant in supplying medications.

781.1(2) The medical services to be provided by the physician assistant also include, but are not limited to, the following:

- a. Initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.
- b. Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.
- c. Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.
- d. Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.
- e. Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.
- f. Assisting in surgery.
- g. Prenatal and postnatal care and assisting a physician in obstetrical care.
- h. Care of orthopedic problems.

i. Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.

j. Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.

k. Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders.

l. Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).

m. Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.

n. Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.

o. Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.

p. Admit patients to a hospital or health care facility as defined in Iowa Code section 135C.1.

q. Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.

r. At the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

s. Direct medical personnel, health professionals, and others involved in caring for patients and the execution of patient care.

t. Authenticate a medical form by signing the form.

u. Perform other duties appropriate to a physician assistant's practice.

v. Health care providers will consider the instructions of a physician assistant to be authoritative.

781.1(3) Emergency medicine duties.

a. A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.

b. A physician assistant will document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.

c. A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.

d. Exceptions to this subrule include:

(1) A physician assistant who accompanies and is responsible for a transfer patient;

(2) A physician assistant who serves on a basic ambulance or rescue squad service; and

(3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

[ARC 8038C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—781.2(148C) Prohibition. No physician assistant engaged in independent practice, as defined in Iowa Code section 148C.1(5), will be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

[ARC 8038C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—781.3(147,88GA,ch1020) Identification as a physician assistant. The physician assistant will be identified as a physician assistant to patients and to the public, regardless of the physician assistant's educational degree.

[ARC 8038C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—781.4(147) Prescription requirements.

781.4(1) Each written outpatient prescription drug order issued by a physician assistant will contain the following:

a. The date of issuance.

b. The name and address of the patient for whom the drug is prescribed.

c. The name, strength, and quantity of the drug, medicine, or device prescribed and directions for use.

d. The physician assistant's name and the practice address.

e. The signature of the physician assistant followed by the initials "PA."

f. The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

781.4(2) Each oral prescription drug order issued by a physician assistant will include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant's practice address.

781.4(3) Prior to prescribing an opioid, a physician assistant will review the patient's information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility patient care.

781.4(4) Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code section 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

[ARC 8038C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—781.5(147) Supplying—requirements for containers, labeling, and records.

781.5(1) *Containers.* A prescription drug will be supplied in a container that meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

781.5(2) *Labeling.* A label bearing the following information will be affixed to a container in which a prescription drug is supplied:

- a.* The name and practice address of the supervising physician and physician assistant.
- b.* The name of the patient.
- c.* The date supplied.
- d.* The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.
- e.* The name, strength and quantity of the prescription drug in the container.
- f.* When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

781.5(3) *Samples.* Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package will be deemed to conform to labeling and packaging requirements.

781.5(4) *Records.* A record of prescription drugs supplied by the physician assistant to a patient will be kept that contains the label information required by paragraphs 781.7(2)"b" through "e." Noting such information on the patient's chart or record is sufficient.

[ARC 8038C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—781.6(147,148C,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the provision of telemedicine services.

781.6(1) *Telemedicine, generally.*

a. Technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.

b. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.

c. Licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.

d. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

781.6(2) *Definitions.* For the purposes of this rule:

"*Asynchronous store-and-forward transmission*" means the collection of a patient's relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

"*Board*" means the Iowa board of physician assistants.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936.

“*In-person encounter*” means that the physician assistant and the patient are in the physical presence of each other and are in the same physical location during the physician assistant-patient encounter.

“*Licensee*” means a physician assistant licensed by the board.

“*Telemedicine*” means the practice of medicine using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine, for the purposes of this rule establishing standards of practice, does not include the provision of medical services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

“*Telemedicine technologies*” means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

781.6(3) Practice guidelines. A licensee who uses telemedicine will utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

781.6(4) License required. A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in Iowa will hold an active Iowa physician assistant license consistent with state and federal laws. Nothing in this rule will be construed to supersede the exceptions to licensure contained in rule 481—780.17(148C).

781.6(5) Standards of care and professional ethics. A licensee who uses telemedicine will be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

781.6(6) Scope of practice. A licensee who uses telemedicine will ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.

781.6(7) Identification of patient and physician assistant. A licensee who uses telemedicine will verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

781.6(8) Physician assistant-patient relationship.

a. A licensee who uses telemedicine will establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-patient relationship begins when:

- (1) The person with a health-related matter seeks assistance from a licensee;
- (2) The licensee agrees to undertake diagnosis and treatment of the person; and
- (3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician assistant and the person.

b. A valid physician assistant-patient relationship may be established by:

- (1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;
- (2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient’s care; or

- (3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

781.6(9) Medical history and physical examination. Generally, a licensee will perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine will interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the

patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

781.6(10) *Non-physician assistant health care providers.* If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a non-physician assistant health care provider, the licensee will:

- a. Ensure that systems are in place to ensure that the non-physician assistant health care provider is qualified and trained to provide that service within the scope of the non-physician assistant health care provider's practice;
- b. Ensure that the licensee is available in person or electronically to consult with the non-physician assistant health care provider, particularly in the case of injury or an emergency.

781.6(11) *Informed consent.* A licensee who uses telemedicine will ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

781.6(12) *Coordination of care.* A licensee who uses telemedicine will, when medically appropriate, identify the medical home or treating clinician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee will provide a copy of the medical record to the patient's medical home or treating clinician(s).

781.6(13) *Follow-up care.* A licensee who uses telemedicine will have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

781.6(14) *Emergency services.* A licensee who uses telemedicine will refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

781.6(15) *Medical records.* A licensee who uses telemedicine will ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician assistant-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee will note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee will ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee will ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

781.6(16) *Privacy and security.* A licensee who uses telemedicine will ensure that all telemedicine encounters comply with the privacy and security measures of HIPAA to ensure that all patient communications and records are secure and remain confidential.

- a. Written protocols will be established that address the following:
 - (1) Privacy;
 - (2) Health care personnel who will process messages;
 - (3) Hours of operation;
 - (4) Types of transactions that will be permitted electronically;
 - (5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;
 - (6) Archiving and retrieval; and
 - (7) Quality oversight mechanisms.
- b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols will include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

781.6(17) *Technology and equipment.* Broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine will comply with the following requirements:

- a. The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;
- b. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and
- c. The technology and equipment utilized in the provision of telemedicine services must be compliant with HIPAA.

781.6(18) *Disclosure and functionality of telemedicine services.* A licensee who uses telemedicine will ensure that the following information is clearly disclosed to the patient:

- a. Types of services provided;
- b. Contact information for the licensee;
- c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;
- d. Limitations in the drugs and services that can be provided via telemedicine;
- e. Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;
- f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);
- g. Appropriate uses and limitations of the technologies, including in emergency situations;
- h. Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;
- i. To whom patient health information may be disclosed and for what purpose;
- j. Rights of patients with respect to patient health information; and
- k. Information collected and passive tracking mechanisms utilized.

781.6(19) *Patient access and feedback.* A licensee who uses telemedicine will ensure that the patient has easy access to a mechanism for the following purposes:

- a. To access, supplement and amend patient-provided personal health information;
- b. To provide feedback regarding the quality of the telemedicine services provided; and
- c. To register complaints. The mechanism will include information regarding the filing of complaints with the board.

781.6(20) *Financial interests.* Advertising or promotion of goods or products from which the licensee receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees will not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

781.6(21) *Circumstances where the standard of care may not require a licensee to personally interview or examine a patient.* Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

- a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;
- b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;
- c. Call situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- d. Cross-coverage situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;
- e. Emergency situations in which the life or health of the patient is in imminent danger;
- f. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- g. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and
- h. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, hospice settings, and correctional facilities.

781.6(22) *Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited.* Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician assistant-patient

relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 781.9(21).

[ARC 8038C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code sections 147.10 and 147.107 and chapters 148C and 272C.

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² April 22, 2015, effective date of ARC 1909C [327.4(2)] delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at a special meeting held April 20, 2015. At its meeting held February 5, 2016, the Committee extended the delay 70 days beyond the adjournment of the 2016 General Assembly.

CHAPTER 782
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 328]

481—782.1(148C) Definitions. For the purpose of these rules, the following definitions will 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 physician assistants.

“*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.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a physician assistant in the state of Iowa.

[ARC 8039C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—782.2(148C) Continuing education requirements.

782.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee will be required to complete a minimum of 100 hours of continuing education approved by the board.

782.2(2) Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

782.2(3) 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.

[ARC 8039C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—782.3(148C,272C) Standards.

782.3(1) General criteria. A continuing education activity is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters that 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;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee’s name.

782.3(2) Specific criteria. Continuing education requirements are as follows:

a. The licensee will complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family Physicians or other organizations accredited by the Accreditation Council for Continuing Medical Education (ACCME).

b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II credit, as accepted by the National Commission on Certification of Physician Assistants (NCCPA), will satisfy the CME requirements. In case of audit, licensees will provide evidence of NCCPA certification during the time period being audited or an activity log for all Category II credits for which a certificate of completion is not available. The activity log will list for each activity the date and type of activity and number of hours claimed per activity.

c. Licensees who maintain certification by the NCCPA may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA for the time period being reviewed or audited.

d. A licensee who has prescribed opioids to a patient during the renewal cycle will complete a minimum of two hours of continuing education regarding the guidelines for prescribing opioids for chronic pain, as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal. These hours may count toward the 100 hours of continuing education required for license renewal. The licensee will maintain documentation of these hours, which may be subject to audit.

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These rules are intended to implement Iowa Code section 272C.2 and chapter 148C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 783
DISCIPLINE FOR PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.11(148C,272C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 329]

481—783.1(148C) Definitions.

“Board” means the board of physician assistants.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice as a physician assistant in Iowa.

[ARC 8040C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

481—783.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

783.2(1) Professional incompetency. Professional incompetency includes but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care that is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.
- e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

783.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

783.2(3) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes but is not limited to an action by a licensee in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.

783.2(4) Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status, except as provided by rule 481—780.15(148C).

783.2(5) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

783.2(6) The performance of a medical function without approved supervision, if supervision is required pursuant to rules 481—780.7(148C) and 481—780.8(148C), except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

783.2(7) Prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

[ARC 8040C, IAB 5/29/24, effective 7/3/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 784
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 330]

481—784.1(17A,272C) Board of physician assistants adoption of uniform and model rules. The board hereby adopts by reference the following:

784.1(1) to **784.1(9)** Reserved.

784.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 785 to 799
Reserved

BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY

CHAPTER 800

LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 3/6/02, see 645—200.3(147) to 645—200.8(147), 645—200.11(272C), and 645—202.3(147) to 645—202.7(147)]

[Prior to 12/24/03, see 645—ch 201]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 200]

481—800.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Assistive personnel*” means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

“*Board*” means the board of physical and occupational therapy.

“*Department*” means the department of inspections, appeals, and licensing.

“*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.

“*Impairment*” means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years after initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice physical therapy to an applicant who is or has been licensed in another state.

“*Mandatory reporter training*” means the training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code sections 232.69 and 235B.16.

“*On site*” means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“*Physical therapist*” means a person licensed under this chapter to practice physical therapy.

“*Physical therapist assistant*” means a person licensed under this chapter to assist in the practice of physical therapy.

“*Physical therapy*” means the same as defined in Iowa Code section 148A.1, including:

1. Evaluation of individuals with impairments in order to determine a diagnosis, prognosis, and plan of therapeutic treatment and intervention, and to assess the ongoing effects of treatment and intervention;
2. Use of the effective properties of physical agents and modalities, including but not limited to mechanical and electrotherapeutic devices, heat, cold, air, light, water, electricity, and sound, to prevent, correct, minimize, or alleviate an impairment;
3. Use of therapeutic exercises to prevent, correct, minimize, or alleviate an impairment;
4. Use of rehabilitative procedures to prevent, correct, minimize, or alleviate an impairment, including but not limited to the following procedures:
 - Manual therapy, including soft-tissue and joint mobilization and manipulation;
 - Therapeutic massage;
 - Dry needling;
 - Prescription, application, and fabrication of assistive, adaptive, orthotic, prosthetic, and supportive devices and equipment;
5. Airway clearance techniques;
6. Integumentary protection and repair techniques; and
7. Debridement and wound care;
5. Interpretation of performances, tests, and measurements;
6. The establishment and modification of physical therapy programs;
7. The establishment and modification of treatment planning;
8. The establishment and modification of consultative services;

9. The establishment and modification of instructions to the patient, including but not limited to functional training relating to movement and mobility; and

10. Participation, administration, and supervision attendant to physical therapy and educational programs and facilities.

“PT” means physical therapist.

“PTA” means physical therapist assistant.

“Reactivate” or “reactivation” means the process as outlined in rule 481—800.7(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in rule 481—506.31(272C). Once the license is reinstated, the licensee may apply for active status.

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.2(147) Initial licensure.

800.2(1) The applicant shall submit a complete online application and pay the nonrefundable fee specified in rule 481—507.13(147,148A).

800.2(2) If the application is not completed according to the instructions, the application will not be reviewed by the board.

800.2(3) Submit official copies of academic transcripts directly from the school to the board. An applicant shall demonstrate successful completion of a physical therapy education program accredited by a national accreditation agency approved by the board. No application will be considered by the board until official copies of academic transcripts have been received.

800.2(4) Submit a completed fingerprint card and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

800.2(5) Have the testing service send the examination score directly to the board.

800.2(6) Provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

800.2(7) A physical therapist or physical therapist assistant applicant who holds a license in another state shall have completed one of the following:

a. Completed board-approved continuing education during the immediately preceding two-year period: 40 hours required for the physical therapist license holder and 20 hours required for a physical therapist assistant license holder; or

b. Practiced for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Served the equivalent of one year as a full-time faculty member teaching in an accredited school of physical therapy for at least one of the immediately preceding two years; or

d. Successfully passed the examination within a period of two years from the date of examination to the time application is completed for licensure.

800.2(8) Submitting complete application materials. An application for a physical therapist or physical therapist assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

800.2(9) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.3(147) Physical therapy compact. The rules of the Physical Therapy Compact Commission are incorporated by reference. A physical therapist or physical therapist assistant may engage in the practice of physical therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the Physical Therapy Compact Commission. The state fee for issuance of a compact privilege to practice in Iowa shall be \$60, which will be collected by the Physical Therapy Compact Commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. A physical therapist or physical therapist assistant who practices physical therapy in Iowa using a compact privilege is subject to the rules governing licensees in rule 481—801.4(147) and in 481—Chapters 801 and 802. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; 2018 Iowa Acts, House File 2425; and the rules in 481—Chapters 503, 504, and 506.

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.4(147) Examination requirements for physical therapists and physical therapist assistants. The following criteria shall apply to the written examination(s):

800.4(1) Evidence of having passed the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

800.4(2) The applicant shall abide by the following criteria:

a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.

b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

800.4(3) The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

800.4(4) Special accommodations. To eliminate discrimination and guarantee fairness under Title II of the Americans with Disabilities Act (ADA), an individual who has a qualifying disability may request an examination accommodation. The applicant must submit appropriate documentation to FSBPT.

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.5(147) Educational qualifications.

800.5(1) The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

a. Educational requirements—physical therapists. Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.

b. Educational requirements—physical therapist assistants. Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

800.5(2) Foreign-trained applicants.

a. Foreign-trained applicants who do not hold a license in another state or U.S. territory shall:

(1) Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone 703.684.8406; website www.fccpt.org. The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant who does not hold a license in another state or territory of the United States and is applying for licensure by taking the examination should be evaluated using the most current version of the FSBPT Coursework Tool (CWT). The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

(2) Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language Internet-based test (TOEFL iBT test) a total score of at least 89 as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading; and 18 in listening. This test is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL iBT test. Applicants may be exempt from the TOEFL iBT test when physical therapy education was completed in a school where the language of instruction in physical therapy was English, the language of the textbooks was English, and the applicant's transcript was in English.

b. Foreign-trained applicants who hold a license in another state or U.S. territory may apply for licensure by endorsement.

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.6(147) License renewal.

800.6(1) The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month 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.

800.6(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.

800.6(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—803.2(148A) and the mandatory reporting requirements of subrule 800.6(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.

800.6(4) Mandatory reporter training requirements.

a. A licensee who is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)“*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

b. A licensee who is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three 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 481—Chapter 500.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

800.6(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

800.6(6) Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

800.6(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

800.6(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 physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant 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 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.7(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

800.7(1) Submit a reactivation application on a form provided by the board.

800.7(2) Pay the reactivation fee that is due as specified in subrule 507.13(5).

800.7(3) Provide verification of current competence to practice physical therapy 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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 20 hours of continuing education for a physical therapist assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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 for a physical therapist assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—800.8(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—800.7(17A,147,272C) prior to practicing physical therapy in this state.

[ARC 7978C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

◊ Two or more ARCs

CHAPTER 801
PRACTICE OF PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 201]

481—801.1(148A,272C) Code of ethics for physical therapists and physical therapist assistants.

801.1(1) Physical therapy. The practice of physical therapy shall minimally consist of:

- a. Interpreting all referrals;
- b. Evaluating each patient;
- c. Identifying and documenting individual patient's problems and goals;
- d. Establishing and documenting a plan of care;
- e. Providing appropriate treatment;
- f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g. Appropriately supervising individuals as described in rule 481—801.4(272C);
- h. Providing timely patient reevaluation;
- i. Maintaining timely and adequate patient records of all physical therapy activity and patient responses

consistent with the standards found in rule 481—801.2(147).

801.1(2) A physical therapist shall:

- a. Not practice outside the scope of the license;
- b. Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;
- c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services;
- f. Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes but is not limited to:
 - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
 - (2) Reporting charges for services not rendered;
 - (3) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the licensee is entitled; or
 - (4) Aiding a patient in fraudulently obtaining payment from a third-party payer;
- g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist owns stock or has any other direct or indirect financial interest;
- h. Not permit another person to use the therapist's license for any purpose;
- i. Not verbally or physically abuse a patient or client;
- j. Not engage in sexual misconduct. Sexual misconduct includes the following:
 - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
 - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
- k. Adequately supervise personnel in accordance with the standards for supervision found in rule 481—801.4(272C);
- l. Assist in identifying a professionally qualified licensed practitioner to perform the service, in the event that the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment.

801.1(3) Physical therapist assistants. A physical therapist assistant shall:

- a. Not practice outside the scope of the license;
- b. Not obtain third-party payment through fraudulent means. Third-party payers include but are not limited to insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes but is not limited to:
 - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
 - (2) Reporting charges for services not rendered;

(3) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

c. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist assistant owns stock or has any other direct or indirect financial interest;

d. Not permit another person to use the physical therapist's or physical therapist assistant's license for any purpose;

e. Not verbally or physically abuse a patient or client;

f. Not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client; and

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;

g. Work only when supervised by a physical therapist and in accordance with rule 481—801.4(272C). If the available supervision does not meet the standards in rule 481—801.4(272C), the physical therapist assistant shall refuse to administer treatment;

h. Inform the delegating physical therapist when the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, and refuse to perform the delegated tasks;

i. Sign the physical therapy treatment record to indicate that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

[ARC 7979C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—801.2(147) Recordkeeping.

801.2(1) A licensee shall maintain sufficient, timely, and accurate documentation in patient records. A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

801.2(2) A licensee who provides clinical services shall store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all patient records for a minimum of five years after the date of the patient's discharge, or, in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

801.2(3) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

801.2(4) Correction of records.

a. *Hard-copy records.* Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

801.2(5) Confidentiality and transfer of records. Physical therapists and physical therapist assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or authorization signed by the patient, the licensee shall furnish such physical therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

801.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

801.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

[ARC 7979C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—801.3(147) Telehealth visits. A licensee may provide physical therapy services to a patient utilizing a telehealth visit if the physical therapy services are provided in accordance with all requirements of this chapter.

801.3(1) “Telehealth visit” means the provision of physical therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the physical therapy session.

801.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant pursuant to the Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat. 1936, and any amendments as of December 8, 2023, and that includes, at a minimum, audio or video equipment or both, that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a physical therapy session or to communicate with a patient between physical therapy sessions.

801.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person physical therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular physical therapy services cannot be met using technology.

801.3(4) Any physical therapist or physical therapist assistant who provides a physical therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa or have a compact privilege issued by the physical therapy compact commission.

801.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the physical therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide physical therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

801.3(6) A licensee shall only provide physical therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

801.3(7) A licensee shall identify in the clinical record when physical therapy services are provided utilizing a telehealth visit.

[ARC 7979C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—801.4(147) Delegation by a supervising physical therapist. A supervising physical therapist may delegate the performance of physical therapy services to a physical therapist assistant only if done in accordance with the statutes and rules governing the practice of physical therapy. A physical therapist assistant may assist in the practice of physical therapy only to the extent allowed by the supervising physical therapist. The supervisory requirements stated in this rule are minimal. It is the professional responsibility and duty of the supervising physical therapist to provide the physical therapist assistant with more supervision if deemed necessary in the supervising physical therapist’s professional judgment.

801.4(1) *Supervision requirements.* A supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant shall provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means that the physical therapist shall be readily available on site or telephonically any time the physical therapist assistant is providing physical therapy services so that the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction.

801.4(2) *Functions that cannot be delegated.* The following are functions that only a physical therapist may provide and that cannot be delegated to a physical therapist assistant:

- a. Interpretation of referrals;
- b. Initial physical therapy evaluation and reevaluations;
- c. Identification, determination, or modification of patient problems, goals, and plans of care;
- d. Final discharge evaluation and establishment of a discharge plan;
- e. Delegation of and instruction in the physical therapy services to be rendered by a physical therapist assistant or unlicensed assistive personnel, including but not limited to specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- f. Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated.

801.4(3) *Physical therapist responsibilities.* At all times, the supervising physical therapist shall be responsible for the physical therapy plan of care and for all physical therapy services provided, including all physical therapy services delegated to a physical therapist assistant. In addition, the supervising physical therapist shall:

- a. Be responsible for the evaluation and development of a plan of care for use by the physical therapist assistant; and

- b. Not delegate a physical therapy service that exceeds the competency or skill set of the physical therapist assistant; and
- c. Ensure that a physical therapist assistant holds an active physical therapist assistant license issued by the board or a compact privilege; and
- d. Ensure that a physical therapist assistant is aware of how the supervising physical therapist can be contacted telephonically or by virtual means when the physical therapist is not providing on-site supervision; and
- e. Arrange for an alternate physical therapist to provide supervision when the physical therapist has scheduled or unscheduled absences during time periods in which a physical therapist assistant will be providing delegated physical therapy services; and
- f. Ensure that a physical therapist assistant is informed when a patient's plan of care is transferred to a different supervising physical therapist; and
- g. Directly participate in physical therapy services upon the physical therapist assistant's request for a reexamination, when a change in the plan of care is needed, prior to any planned discharge, and in response to a change in the patient's medical status; and
- h. Hold regularly scheduled meetings with the physical therapist assistant to evaluate the physical therapist assistant's performance, assess the progress of a patient, and make changes to the plan of care as needed. The frequency of meetings should be determined by the supervising physical therapist based on the needs of the patient, the supervisory needs of the physical therapist assistant, and any planned discharge. The supervising physical therapist shall provide direction and instruction to the physical therapist assistant that are adequate to ensure the safety and welfare of the patient.

801.4(4) *Physical therapist assistant responsibilities.* A physical therapist assistant shall only provide physical therapy services under the supervision of a physical therapist. In addition, the physical therapist assistant shall:

- a. Only provide physical therapy services that have been delegated by the supervising physical therapist; and
- b. Only provide physical therapy services that are within the competency and skill set of the physical therapist assistant; and
- c. Consult the supervising physical therapist if the physical therapist assistant believes that any procedure is not in the best interest of the patient; and
- d. Contact the supervising physical therapist regarding any change or lack of change in a patient's condition that may require assessment by the supervising physical therapist; and
- e. Refer inquiries that require interpretation to the supervising physical therapist; and
- f. Ensure that the identification of the supervising physical therapist is included in the documentation for any visit when physical therapy services were provided by the physical therapist assistant; and
- g. Only sign a treatment record if the provision of physical therapy services was done in accordance with the statutes and rules governing the practice of a physical therapist assistant.

801.4(5) *Ratio.* A physical therapist shall determine the number of physical therapist assistants who can be supervised safely and competently and shall not exceed that number; but in no case shall a physical therapist supervise more than four physical therapist assistants per calendar day. A physical therapist assistant who performs any delegated physical therapy services on behalf of the supervising physical therapist on a particular day shall be counted in determining the maximum ratio, regardless of the location of the physical therapist assistant or the number of patients treated.

801.4(6) *Minimum frequency of direct participation by a supervising physical therapist.* A supervising physical therapist shall use professional judgment to determine how frequently the physical therapist needs to directly participate in physical therapy services when delegating to a physical therapist assistant, the frequency of which shall be based on the needs of the patient. Direct participation can occur through an in-person or telehealth visit. The supervising physical therapist shall ensure that the patient record clearly indicates which visits included direct participation by the supervising physical therapist. The following are the minimum standards, which are expected to be exceeded when dictated by the supervising physical therapist's professional judgment, for the required frequency of direct participation by the supervising physical therapist when physical therapy services involve delegation to a physical therapist assistant:

a. *Hospital inpatient and skilled nursing.* For hospital inpatients and skilled nursing patients, a supervising physical therapist must directly participate in physical therapy services a minimum of once per calendar week. A calendar week is defined as Sunday through Saturday.

b. *All other settings.* In all other settings, a supervising physical therapist must directly participate in the provision of physical therapy services at least every eighth visit or every 30 calendar days, whichever comes first.

801.4(7) *Unlicensed assistive personnel.* A physical therapist is responsible for patient care provided by unlicensed assistive personnel under the physical therapist's supervision. A physical therapist is responsible for

ensuring the qualifications of any unlicensed assistive personnel and shall maintain written documentation of their education or training. Unlicensed assistive personnel may assist a physical therapist assistant in the delivery of physical therapy services only if the physical therapist assistant maintains in-sight supervision of the unlicensed assistive personnel and the physical therapist assistant is primarily and significantly involved in the patient's care. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a.* The physical therapist has direct participation in the patient's treatment or evaluation, or both, each treatment day;
- b.* Unlicensed assistive personnel may provide independent patient care only while under the on-site supervision of the physical therapist;
- c.* Documentation made in a physical therapy record by unlicensed assistive personnel shall be cosigned by the physical therapist; and
- d.* The physical therapist provides periodic reevaluation of any unlicensed assistive personnel's performance in relation to the patient.

[ARC 7979C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

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CHAPTER 802

DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 3/6/02, see 645—200.10(272C) and 645—202.8(272C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 202]

481—802.1(148A) Definitions.

“Board” means the board of physical and occupational therapy.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice in Iowa pursuant to Iowa Code chapter 148A and 481—Chapters 800 through 808.

[ARC 7980C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—802.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in 481—Chapter 504 when the board determines that any of the acts or offenses listed in such rule or in Iowa Code section 147.55 have occurred:

802.2(1) Professional incompetency. Professional incompetency includes but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physical therapists or physical therapist assistants in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care that is ordinarily exercised by the average physical therapist or physical therapist assistant acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed physical therapist or licensed physical therapist assistant in this state.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

802.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of physical therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

802.2(3) Violation of a regulation, rule or law of this state, another state, or the United States that relates to the practice of physical therapy, including but not limited to the code of ethics found in rule 481—801.1(148A,272C).

802.2(4) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of physical therapy in another state, district, territory or country.

802.2(5) Knowingly aiding, assisting or advising a person to unlawfully practice physical therapy.

802.2(6) Representing oneself as a licensed physical therapist or physical therapist assistant when one’s license has been suspended or revoked, or when the license is on inactive status.

[ARC 7980C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

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CHAPTER 803
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 203]

481—803.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of continuing education requirements.

“*Board*” means the board of physical and occupational therapy.

“*Continuing education*” means the same as defined in Iowa Code section 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*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 and 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 a physical therapist or physical therapist assistant in the state of Iowa.

[ARC 7981C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—803.2(148A) Continuing education requirements.

803.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state will be required to complete a minimum of 40 hours of continuing education approved by the board.

b. Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state will be required to complete a minimum of 20 hours of continuing education approved by the board.

803.2(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 any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for physical therapists and a minimum of 20 hours for physical therapist assistants each subsequent license renewal.

803.2(3) No hours of continuing education shall be carried over into the next biennium except for a new licensee. 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.

[ARC 7981C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—803.3(148A,272C) Standards.

803.3(1) *General criteria.* Appropriate continuing education activity for purposes of license renewal will support each of the following:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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 including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

803.3(2) *Specific criteria.*

a. Licensees may obtain continuing education hours of credit by:

(1) Attending workshops, conferences, or symposiums.
 (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

(3) Completing an American Physical Therapy Association-approved postprofessional clinical residency or fellowship. A licensee will receive 1 hour of credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours may not be used for credit if the licensee is also seeking credit hours earned for postprofessional academic coursework in the same renewal period.

(4) Directly supervising students for clinical education if the students being supervised are from an accredited physical therapist or physical therapist assistant program and are participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for a physical therapist and 4 hours for a physical therapist assistant may be awarded per biennium. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

(5) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.

(6) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of physical therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit
 1 academic trimester hour = 12 continuing education hours of credit
 1 academic quarter hour = 10 continuing education hours of credit

(7) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

1 academic semester hour = 15 continuing education hours of credit
 1 academic trimester hour = 12 continuing education hours of credit
 1 academic quarter hour = 10 continuing education hours of credit

(8) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page.

(9) Participating in professional organizations related to the practice of physical therapy, with one credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of four hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of physical therapy and therefore must not exceed a maximum combined total of ten hours of credit for a physical therapist licensee and five hours of credit for a physical therapist assistant licensee:

(1) Business-related topics, such as marketing, time management, government regulations, and other like topics.
 (2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.
 (3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

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These rules are intended to implement Iowa Code section 272C.2 and chapter 148A.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 804
LICENSURE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 3/6/02, see 645—201.3(147,148B,272C) to 645—201.7(147) and 645—201.9(272C)]
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 206]

481—804.1(147) 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 physical and occupational therapy.

“Department” means the department of inspections, appeals, and licensing.

“Endorsement” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state who has the same or similar qualifications to those required in Iowa.

“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 occupational therapist or occupational therapy assistant in the state of Iowa.

“License expiration date” means the fifteenth day of the birth month every two years after initial licensure.

“Licensure by endorsement” means the issuance of an Iowa license to practice occupational therapy to an applicant who is or has been licensed in another state.

“Licensure examination” means the examination administered by the National Board for Certification in Occupational Therapy.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code sections 232.69 and 235B.16.

“NBCOT” means the National Board for Certification in Occupational Therapy.

“Occupational therapist” means a person licensed under this chapter to practice occupational therapy.

“Occupational therapy assistant” means a person licensed under this chapter to assist in the practice of occupational therapy.

“Occupational therapy practice” means the therapeutic use of occupations, including everyday life activities with individuals, groups, populations, or organizations, to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. The practice of occupational therapy includes:

1. Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation, including:

- Client factors, including body functions (such as neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and pain factors) and body structures (such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement) and values, beliefs, and spirituality.

- Habits, routines, roles, rituals, and behavior patterns.

- Physical and social environments; cultural, personal, temporal and virtual contexts; and activity demands that affect performance.

- Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication and social skills.

2. Methods or approaches selected to direct the process of interventions, including:

- Establishment of a skill or ability that has not yet developed or remediation or restoration of a skill or ability that is impaired or is in decline.

- Compensation, modification, or adaptation of activity or environment to enhance performance or to prevent injuries, disorders, or other conditions.

- Retention and enhancement of skills or abilities without which performance in everyday life activities would decline.

- Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities.

- Prevention of barriers to performance and participation, including injury and disability prevention.
- 3. Interventions and procedures to promote or enhance safety and performance in ADL, IADL, rest and sleep, education, work, play, leisure, and social participation, including:
 - Therapeutic use of occupations, exercises, and activities.
 - Training in self-care, self-management, health management and maintenance, home management, community/work reintegration, and school activities and work performance.
 - Development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, visual, mental, and cognitive functions, pain tolerance and management, and behavioral skills.
 - Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
 - Education and training of individuals, including family members, caregivers, groups, populations, and others.
 - Care coordination, case management, and transition services.
 - Consultative services to groups, programs, organizations, or communities.
 - Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
 - Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
 - Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices.
 - Low vision rehabilitation.
 - Driver rehabilitation and community mobility.
 - Management of feeding, eating, and swallowing to enable eating and feeding performance.
 - Application of physical agent modalities and use of a range of specific therapeutic procedures (such as wound care management, interventions to enhance sensory-perceptual and cognitive processing, and manual therapy) to enhance performance skills.
 - Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and the adaptation of processes.

"Occupational therapy screening" means a brief process that is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and that includes:

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual's caregivers; or
3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term interventions to children prior to an evaluation, not to exceed 16 sessions per concern per school year, in accordance with state and federal educational policy.

"On site" means:

1. To be continuously on site and present in the department or facility where the assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

"OT" means occupational therapist.

"OTA" means occupational therapy assistant.

"Reactivate" or *"reactivation"* means the process as outlined in rule 481—804.8(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in rule 481—506.31(272C). Once the license is reinstated, the licensee may apply for active status.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.2(147) Initial licensure. The following criteria shall apply to licensure. The applicant shall:

804.2(1) Submit a complete online application and pay the nonrefundable fee specified in rule 481—507.11(147,148B).

804.2(2) Submit an official copy of academic transcripts directly from the school to the board. No application will be considered by the board until official copies of academic transcripts have been received.

804.2(3) Direct the examination service to submit examination scores directly to the board.

804.2(4) Provide 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 it provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.3(147) Licensure by endorsement. An occupational therapist or occupational therapy assistant applicant who holds a license in another state shall complete requirements in rule 481—804.2(147) and have completed one of the following:

804.3(1) Completed board-approved continuing education during the immediately preceding two-year period: 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant; or

804.3(2) Practiced for a minimum of 2,080 hours during the immediately preceding two-year period; or

804.3(3) Served the equivalent of one year as a full-time faculty member teaching in an accredited school of occupational therapy for at least one of the immediately preceding two years; or

804.3(4) Successfully passing the examination within a period of two years from the date of examination to the time application is completed for licensure.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.4(147) Limited permit to practice pending licensure. A limited permit holder who is applying for licensure in Iowa by taking the licensure examination for the first time and has never been licensed as an occupational therapist or occupational therapy assistant in any state, the District of Columbia, or another country must have completed the educational and experience requirements for licensure as an occupational therapist or occupational therapy assistant. The limited permit holder shall:

1. Make arrangements to take the examination and have the official results of the examination sent directly from the examination service to the board;

2. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed occupational therapist(s) who will provide supervision of the limited permit holder until the limited permit holder is licensed;

3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months from the date the application was received in the board office;

4. Submit to the board the name of the OT providing supervision within seven days after a change in supervision occurs; and

5. If the applicant fails the national examination, cease practicing immediately.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.5(147) Examination requirements. The following criteria shall apply to the written examination(s):

804.5(1) The applicant for licensure as an occupational therapist shall have received a passing score on the licensure examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

804.5(2) The applicant for licensure as an occupational therapy assistant shall have received a passing score on the licensure examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.6(147) Educational qualifications.

804.6(1) The applicant must present proof of meeting the following requirements for licensure as an occupational therapist or occupational therapy assistant:

a. Occupational therapist. The applicant for licensure as an occupational therapist shall have completed the requirements for a degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

b. Occupational therapy assistant. The applicant for licensure as an occupational therapy assistant shall be a graduate of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

804.6(2) Foreign-trained occupational therapists and occupational therapy assistants. To become eligible to take the licensure examination, internationally educated occupational therapists must meet NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy educational programs.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.7(147) License renewal.

804.7(1) The biennial license renewal period for a license to practice as an occupational therapist or occupational therapy assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month 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.

804.7(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.

804.7(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—805.2(272C) and the mandatory reporting requirements of rule 481—804.9(17A,147,272C). 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; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

804.7(4) Mandatory reporter training requirements.

a. A licensee who is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)“*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

b. A licensee who is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three 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 an occupational or mental disability or illness as identified in 481—Chapter 500.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

804.7(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

804.7(6) Persons licensed to practice as occupational therapists or occupational therapy assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

804.7(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.11(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

804.7(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 occupational therapist or occupational therapy assistant in Iowa until the license is reactivated. A licensee who practices as an occupational therapist or occupational therapy assistant 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 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

804.8(1) Submit a reactivation application on a form provided by the board.

804.8(2) Pay the reactivation fee that is due as specified in 481—subrule 507.11(5).

804.8(3) Provide verification of current competence to practice occupational therapy 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 15 hours of continuing education for an occupational therapy assistant and 30 hours of continuing education for an occupational therapist within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 30 hours of continuing education for an occupational therapy assistant and 60 hours of continuing education for an occupational therapist within two years of application for reactivation; verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

[ARC 7982C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—804.9(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—804.8(17A,147,272C) prior to practicing occupational therapy in this state.

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These rules are intended to implement Iowa Code chapters 17A, 147, 148B and 272C.

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◊ Two or more ARCs

CHAPTER 805
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 207]

481—805.1(148B) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of compliance with continuing education requirements.

“*Board*” means the board of physical and occupational therapy.

“*Continuing education*” means the same as defined in Iowa Code section 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*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 and 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 occupational therapist or occupational therapy assistant in the state of Iowa.

[ARC 7983C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—805.2(272C) Continuing education requirements.

805.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the licensee’s birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state will have the responsibility to finance the cost and be required to complete a minimum of 30 hours of continuing education approved by the board.

b. Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state will be required to complete a minimum of 15 hours of continuing education approved by the board.

805.2(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 any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for occupational therapists and 15 hours for occupational therapy assistants each subsequent license renewal.

805.2(3) With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. 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.

[ARC 7983C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—805.3(148B,272C) Standards.

805.3(1) General criteria. Appropriate continuing education activity for purposes of license renewal will support each of the following:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

805.3(2) *Specific criteria.*

a. Licensees may obtain continuing education hours of credit by:

- (1) Attending workshops, conferences, or symposiums.
- (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

(3) Directly supervising students for clinical education if the student being supervised is from an accredited occupational therapy or occupational therapy assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for an occupational therapist and 4 hours for an occupational therapy assistant may be awarded per biennium. The occupational therapist or occupational therapy assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

(4) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.

(5) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of occupational therapy will be necessary in order for the licensee to receive the following continuing education credits:

- 1 academic semester hour = 15 continuing education hours of credit
- 1 academic trimester hour = 12 continuing education hours of credit
- 1 academic quarter hour = 10 continuing education hours of credit

(6) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

- 1 academic semester hour = 15 continuing education hours of credit
- 1 academic trimester hour = 12 continuing education hours of credit
- 1 academic quarter hour = 10 continuing education hours of credit

(7) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page.

(8) Participating in professional organizations related to the practice of occupational therapy, with one credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of four hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of occupational therapy and therefore must not exceed a maximum combined total of eight hours of credit for an occupational therapist licensee and four hours of credit for an occupational therapy assistant licensee:

- (1) Business-related topics, such as marketing, time management, government regulations, and other like topics.
- (2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.
- (3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

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◇ Two or more ARCs

CHAPTER 806

PRACTICE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 208]

481—806.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants.

806.1(1) Occupational therapy. The practice of occupational therapy minimally consists of:

- a. Interpreting referrals;
- b. Evaluating patients;
- c. Identifying and documenting patient problems and goals;
- d. Establishing and documenting a plan of care;
- e. Providing treatment;
- f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g. Supervising individuals as described in rule 481—806.5(272C);
- h. Providing timely patient reevaluation;
- i. Maintaining timely and adequate patient records consistent with the standards found in rule 481—806.2(147).

806.1(2) An occupational therapist or occupational therapy assistant should:

- a. Not practice outside the scope of the license;
- b. Not perform a treatment procedure that is inadvisable or contraindicated;
- c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services;
- f. Not obtain payment through fraudulent means. Obtaining payment through fraudulent means includes but is not limited to:
 - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
 - (2) Reporting charges for services not rendered;
 - (3) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the licensee is entitled; or
 - (4) Aiding a patient in fraudulently obtaining payment;
- g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the occupational therapist owns stock or has any other direct or indirect financial interest;
- h. Not permit another person to use the therapist's license for any purpose;
- i. Not verbally or physically abuse a patient or client;
- j. Not engage in sexual misconduct. Sexual misconduct includes the following:
 - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
 - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
- k. Follow the standards for supervision found in rule 481—806.4(272C);
- l. Not perform a task or service for which the therapist lacks the skill, knowledge or competence. In such a case, the therapist should either refuse to perform the task or service and/or arrange for a professionally qualified licensed practitioner to perform the task or service;
- m. Sign the occupational therapy treatment record to indicate that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an occupational therapist or occupational therapy assistant.

[ARC 7984C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—806.2(147) Recordkeeping.

806.2(1) A licensee should maintain sufficient, timely, and accurate documentation in patient records to reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

806.2(2) A licensee should store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee should store patient records for a minimum of five years after the date of the patient's discharge, or in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

806.2(3) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

806.2(4) Correction of records.

a. Hard-copy records. Notations should be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

806.2(5) Confidentiality and transfer of records. Occupational therapists and occupational therapy assistants shall preserve the confidentiality of patient records consistent with federal and state law.

806.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

806.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

[ARC 7984C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—806.3(147) Telehealth visits. A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

806.3(1) "Telehealth visit" means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

806.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant, pursuant to the Health Insurance Portability and Accountability Act of 1996, PL 104–191, August 21, 1996, 110 Stat. 1936, and any amendments as of December 8, 2023, and that includes, at a minimum, audio or video equipment or both, that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

806.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

806.3(4) Any occupational therapist or occupational therapy assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

806.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a.* The risks and limitations of the use of technology to provide occupational therapy services;
- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth visit.

806.3(6) A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

806.3(7) A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

[ARC 7984C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—806.4(147) Practice of occupational therapy limited permit holders.

806.4(1) Occupational therapist limited permit holders may:

- a.* Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and
- b.* Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

806.4(2) Occupational therapy assistants and limited permit holders shall:

- a.* Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and

b. Perform occupational therapy procedures delegated by the supervising OT as required in rule 481—806.5(148B).

[ARC 7984C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—806.5(148B) Supervision requirements.

806.5(1) Care rendered by unlicensed assistive personnel shall not be documented or charged as occupational therapy unless direct on-site supervision is provided by an OT or in-sight supervision is provided by an OTA.

806.5(2) Occupational therapist supervisor responsibilities. The supervisor shall:

a. Provide supervision to a licensed OTA, OT limited permit holder and OTA limited permit holder any time occupational therapy services are rendered. Supervision may be provided on site or through the use of telecommunication or other technology.

b. Ensure that every licensed OTA, OT limited permit holder and OTA limited permit holder being supervised is aware of who the supervisor is and how the supervisor can be contacted any time occupational therapy services are rendered.

c. Assume responsibility for all delegated tasks and shall not delegate a service that exceeds the expertise of the OTA or OTA limited permit holder.

d. Provide evaluation and development of a treatment plan for use by the OTA.

e. Ensure that the OTA, OT limited permit holder and OTA limited permit holder under the OT's supervision have current licenses to practice.

f. Ensure that the signature of an OTA on an occupational therapy treatment record indicates that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

806.5(3) The following are functions that only an occupational therapist may provide and that shall not be delegated to an OTA:

a. Interpretation of referrals;

b. Initial occupational therapy evaluation and reevaluations;

c. Identification, determination or modification of patient problems, goals, and care plans;

d. Final discharge evaluation and establishment of the discharge plan;

e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;

f. Delegation of and instruction in the services to be rendered by the OTA, including but not limited to specific tasks or procedures, precautions, special problems, and contraindicated procedures; and

g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

806.5(4) Supervision of unlicensed assistive personnel. OTs are responsible for patient care provided by unlicensed assistive personnel under the OT's supervision. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

a. The supervising OT shall physically participate in the patient's treatment or evaluation, or both, each treatment day;

b. The unlicensed assistive personnel shall provide independent patient care only while under the on-site supervision of the supervising OT;

c. Documentation made in occupational therapy records by unlicensed assistive personnel shall be cosigned by the supervising OT; and

d. The supervising OT shall provide periodic reevaluation of the performance of unlicensed assistive personnel in relation to the patient.

806.5(5) Minimum frequency of OT interaction. At a minimum, an OT must directly participate in treatment, either in person or through a telehealth visit, every twelfth visit for all patients and must document each visit. The occupational therapist shall participate at a higher frequency when the standard of care dictates.

806.5(6) Occupational therapy assistant responsibilities.

a. The occupational therapy assistant shall:

(1) Provide only those services for which the OTA has the necessary skills and shall consult the supervising occupational therapist if the procedures are believed not to be in the best interest of the patient;

(2) Gather data relating to the patient's disability during screening, but shall not interpret the patient information as it pertains to the plan of care;

(3) Communicate any change, or lack of change, that occurs in the patient's condition and that may need the assessment of the OT;

(4) Provide occupational therapy services only under the supervision of the occupational therapist;

(5) Provide treatment only after evaluation and development of a treatment plan by the occupational therapist;

- (6) Refer inquiries that require interpretation of patient information to the occupational therapist;
- (7) Be supervised by an occupational therapist, either on site or through the use of telecommunication or other technology, at all times when occupational therapy services are being rendered;
- (8) Receive supervision from any number of at least one occupational therapist; and
- (9) Record on every patient chart the name of the OTA's supervisor for each treatment session.

b. The signature of an OTA on the occupational therapy treatment record indicates that occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

806.5(7) Unlicensed assistive personnel. Unlicensed assistive personnel may assist an OTA in providing patient care in the absence of an OT only if the OTA maintains in-sight supervision of the unlicensed assistive personnel and the OTA is primarily and significantly involved in that patient's care.

806.5(8) The occupational therapy limited permit holder may evaluate clients, plan treatment programs, and provide periodic reevaluations under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision.

[ARC 7984C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 807
DISCIPLINE FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 3/6/02, see 645—201.10(272C)]

[Prior to 12/24/03, see 645—Ch 208]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 209]

481—807.1(148B) Definitions.

“*Board*” means the board of physical and occupational therapy.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice in Iowa pursuant to Iowa Code chapter 148A and 481—Chapters 804 through 808.

[ARC 7985C, IAB 5/15/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—807.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in 481—Chapter 504 when the board determines that any of the acts or offenses listed in that chapter or in Iowa Code section 147.55 have occurred:

807.2(1) Professional incompetency. Professional incompetency includes but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other occupational therapists or occupational therapy assistants in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care that is ordinarily exercised by the average occupational therapist or occupational therapy assistant acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed occupational therapist or licensed occupational therapy assistant in this state.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

807.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of occupational therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

807.2(3) Violation of a regulation, rule or law of this state, another state, or the United States that relates to the practice of occupational therapy, including but not limited to the code of ethics found in rule 481—806.1(148B,272C).

807.2(4) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of occupational therapy in another state, district, territory or country.

807.2(5) Knowingly aiding, assisting or advising a person to unlawfully practice occupational therapy.

807.2(6) Failure to report a change of name or address within 30 days after it occurs.

807.2(7) Representing oneself as a licensed occupational therapist or occupational therapy assistant when one’s license has been suspended or revoked, or when the license is on inactive status.

807.2(8) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

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These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 808
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 210]

481—808.1(17A,272C) Board of physical and occupational therapy adoption of uniform and model rules. The board hereby adopts by reference the following:

808.1(1) to **808.1(9)** Reserved.

808.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 809 to 820
Reserved

BOARD OF MASSAGE THERAPY

CHAPTER 821

LICENSURE OF MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—130.4(152C) and 645—130.6(152C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 131]

481—821.1(152C) Definitions.

“Anniversary month” means the month the license was issued by the board.

“Board” means the Iowa board of massage therapy.

“Board-approved school” means a school for massage therapy education that provides at least 600 hours of supervised academic instruction; has been recognized as legitimate by the board in the state where the school is located or in the state where the school was located if the school has since closed; has been recognized by a similar board in another jurisdiction that licenses massage therapists if massage therapy is not a licensed profession in the state where the school is located; and has not been denied, suspended, or revoked by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Issuing jurisdiction” means the duly constituted authority in another state that has issued a massage therapy license to a person.

“Licensee” means any person licensed to practice as a massage therapist in the state of Iowa.

“License expiration date” means the fifteenth day of the anniversary month every two years.

“Massage therapy” means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy that involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.2(272C) Licensure by examination. A person who has completed the curriculum at a board-approved school may seek licensure in accordance with this rule.

821.2(1) Submit the following:

a. A completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.8(147). Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

b. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

c. If the applicant has been issued one or more licenses to practice massage therapy by other issuing jurisdictions, verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the issuing jurisdiction to the board. Web-based verification may be substituted for verification from the jurisdiction’s board office if the verification provides:

- (1) The licensee’s name;
- (2) The date of initial licensure;
- (3) The applicant’s current licensure status; and
- (4) Any disciplinary action taken against the license.

821.2(2) An applicant who has relocated to Iowa from a state that did not require licensure to practice massage therapy may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.3(152C) Educational qualifications for foreign-trained massage therapists. Prospective applicants who completed their education outside of the United States may receive credit for their education, provided they comply with the following:

821.3(1) Provide an equivalency evaluation of their educational credentials by one of the following entities demonstrating the curriculum is equivalent to that stated in these rules. The applicant bears the expense of the curriculum evaluation.

a. International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website www.ierf.org.

b. International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone 727.549.8555.

c. Josef Silny & Associates, Inc., 7101 SW 102nd Avenue, Miami, FL 33173; telephone 305.273.1616; website jsilny.org.

821.3(2) Provide a notarized copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

821.3(3) Receive a final determination from the board that the applicant's education is acceptable.

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.4(152C) Licensure by endorsement.

821.4(1) A person who has been issued a license to practice massage therapy by another issuing jurisdiction may seek licensure in accordance with this rule.

821.4(2) Submit the following:

a. A completed online application for licensure and pay nonrefundable licensure fee specified in rule 481—507.8(147).

b. Official copies of academic transcripts sent directly to the board by the board-approved school. If a school has closed and is no longer operational, the board will accept an official transcript provided by the applicant.

c. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

d. Proof that the licensure requirements in the issuing jurisdiction are equal to or exceed the requirements provided in rule 481—821.2(152C).

e. Verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the issuing jurisdiction to the board. Web-based verification may be substituted for verification from the issuing jurisdiction's board office if the verification provides:

- (1) The licensee's name;
- (2) The date of initial licensure;
- (3) The applicant's current licensure status; and
- (4) Any disciplinary action taken against the license.

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.5(152C) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.6(152C) Temporary license. A person who is licensed to practice massage therapy in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement, and who does not seek licensure by verification, may be issued a temporary license in accordance with this rule.

821.6(1) An applicant for temporary license shall submit the following:

a. A completed online application for licensure and pay nonrefundable licensure fee specified in rule 481—507.8(147).

b. Verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the issuing jurisdiction to the board. Web-based verification may be substituted for verification from a 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.

c. A plan for meeting all remaining requirements for licensure within one year of issuance of the temporary permit. Such a plan will include proof of enrollment in a school of massage therapy whose curriculum has been approved by the board, the date of enrollment, and the expected date of graduation.

821.6(2) A temporary license is valid for a period of up to one year and will not be renewed.

821.6(3) A temporary license holder shall be issued a permanent license upon the board's receipt of the following:

a. Official copies of academic transcripts sent directly to the board by the board-approved school demonstrating completion of all remaining hours of education for licensure.

b. Proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) sent directly from the testing authority to the board. The passing score on the written examination is the passing point criterion established by the testing authority at the time the test was administered.

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.7(152C) License display. The license certificate and proof of active licensure will be displayed in a conspicuous public place at the licensee's primary site of practice.

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.8(152C) License renewal.

821.8(1) The biennial license renewal period begins on the sixteenth day of the anniversary month and ends on the fifteenth day of the anniversary month two years later. The licensee is responsible for renewing the license prior to its expiration.

821.8(2) Continuing education does not need to be completed during the first biennial license renewal period and is not a prerequisite for the first renewal of a license.

821.8(3) A licensee seeking renewal shall comply with the following before the license expiration date:

a. Submit a completed renewal application and renewal fee specified in rule 481—507.8(147), before the license expiration date; and

b. Meet the continuing education requirements of rule 481—823.2(152C) and the mandatory reporting requirements of subrule 821.8(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.

821.8(4) Mandatory reporter training.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities examines, attends, counsels, or treats children and dependent adults in Iowa shall complete the applicable department of health and human services' training related to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b." The licensee will indicate on the renewal application completion of such training.

b. 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; or

(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 the requirements due to a physical or mental disability or illness as provided in rule 481—500.14(272C).

c. The board may select licensees for audit of compliance with the requirements of this subrule.

821.8(5) Issuing renewals. Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license renewal. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

821.8(6) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in 481—subrule 507.8(4). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

821.8(7) 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 massage therapist in Iowa until the license is reactivated. A licensee who practices as a massage therapist 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 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.9(17A,147,272C) License reactivation.

821.9(1) A person whose license is inactive may apply to reactivate the license in accordance with this rule.

821.9(2) The licensee shall submit all of the following:

a. A completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.8(147). If the license has been inactive for five years or less, submission of:

(1) Proof of completion of 16 hours of continuing education within two years of application; and

(2) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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.

b. If the license has been on inactive status for more than five years, submission of:

(1) Proof of completion of 16 hours of continuing education within two years of application;

(2) Proof of two years of active, licensed practice in another issuing jurisdiction immediately prior to submitting the application, or proof of passing one of the following examinations within two years of submitting the application:

1. The National Certification Examination for Therapeutic Massage (NCETM);
2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);
3. The National Examination for States Licensing (NESL) option; or
4. The Massage and Bodywork Licensing Examination (MBLEX); and

(3) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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.

[ARC 8051C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—821.10(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 rule 481—506.31(272C) and, if applicable, must apply for and be granted reactivation of the license in accordance with rule 481—821.9(17A,147,272C) prior to practicing as a massage therapist in this state.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 822
MESSAGE THERAPY EDUCATION CURRICULUM

[Prior to 6/26/02, see 645—130.5(152C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 132]

481—822.1(152C) Definitions.

“Approved curriculum” means that the massage therapy education course of study meets the criteria specified in this chapter and has been approved by the board of massage therapy.

“Board” means the board of massage therapy.

“Clinical practicum” means hands-on massage therapy provided to members of the public by a student who is enrolled at a massage therapy school and is under the supervision of an instructor who is an Iowa-licensed massage therapist, is physically present on the premises and is available for advice and assistance. “Clinical practicum” does not include classroom practice.

“Course of study” means a series of classroom courses, not including continuing education, which is approved by the board as having a unified purpose in training individuals toward a certificate, degree or diploma in the practice of massage therapy.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—822.2(152C) Application for approval of massage therapy education curriculum.

822.2(1) Applications for curriculum approval of in-state massage therapy schools will be submitted online with the accompanying fee. Curriculum approval is valid for up to two years with reapplication for approval due June 30 of each even-numbered year. The biennial renewal cycle begins July 1 of an even-numbered year and ends June 30 two years later. Schools that receive curriculum approval within six months prior to the start of the next biennial renewal cycle do not need to reapply for curriculum approval until the following even-numbered year.

822.2(2) The application for curriculum approval includes the following:

- a. A completed board-approved application form;
- b. The curriculum approval application fee as specified in 481—Chapter 507;
- c. A completed Curriculum Criteria and Documentation form;
- d. The current school catalog, including name of the program(s), a description of the curriculum delivery system, course descriptions, and program accreditation or approval by other professional entities; and
- e. A sample diploma and a sample transcript that identify the name of the graduate, name of the program, graduation date, and the degree, diploma or certificate awarded.

822.2(3) Out-of-state school curriculum will be reviewed on a case-by-case basis upon receipt of the curriculum as a part of an individual’s application for licensure to practice massage therapy in the state of Iowa.

822.2(4) Massage therapy schools that do not renew curriculum approval by the expiration date shall be removed from the board’s list of approved curriculum providers until such time that they comply with curriculum approval requirements.

822.2(5) Schools that apply for curriculum approval shall, at a minimum, provide a curriculum that meets the requirements of this chapter, offer a course of study of at least 600 clock hours or the equivalent in academic credit hours, and require for entrance into the massage therapy school graduation from high school or its equivalent.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—822.3(152C) Curriculum requirements. An approved curriculum will include but not be limited to the following content areas:

1. Massage theory and principles.
2. Massage professional practices.
3. The therapeutic relationship.
4. Anatomy, physiology, and pathology.
5. Assessment and documentation.
6. Massage and bodywork application.
7. Palpation and movement.
8. Adapting sessions for clients.
9. Career development.
10. Iowa law and professional ethics.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—822.4(152C) Student clinical practicum standards.

822.4(1) The school must provide clinical practicum hours at the school's primary location or an event sponsored by the school.

822.4(2) At all times when the student delivers physical contact with the public or other students, a clinical instructor/supervisor who is an Iowa-licensed massage therapist shall be personally in attendance to supervise and evaluate.

822.4(3) Students shall complete at least 200 hours of coursework in the content areas of fundamentals of massage therapy and assessment that includes indications and contraindications for treatment prior to providing services to the public and beginning the clinical practicum. Included in this 200 hours will be a minimum of 100 hours in anatomy and physiology, which includes the structure and function of the human body and common pathologies.

822.4(4) The clinical practicum shall not exceed 25 percent of a program's total required hours.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—822.5(152C) School records retention. Records documenting the student's completion of the curriculum will be maintained for two years following the student's graduation date. In the event of school closure, the board will be notified of the location of the records.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—822.6(152C) Massage school curriculum compliance.

822.6(1) A school will maintain curriculum records and make the records available to the board upon request.

822.6(2) A school whose curriculum is approved shall notify the board in writing within 30 days if there is a change of address, a school closing, or a curriculum revision that does not meet the requirements of this chapter.

822.6(3) Each student who successfully completes curriculum requirements will be awarded a certificate or diploma that includes the student's legal name, date of graduation, the name of the program, and the degree or certificate awarded. The school will also provide them with an official transcript that includes the student's legal name and date of graduation.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—822.7(152C) Denial or withdrawal of approval.

822.7(1) The board will deny or withdraw approval of a school curriculum if the board determines the curriculum does not meet the requirements of this chapter.

822.7(2) The board will notify the school in writing if the board denies or withdraws curriculum approval. Following denial or withdrawal of approval by the board, the school may request that the board reconsider its decision. The board in its sole discretion shall determine whether to grant such a request.

[ARC 8052C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapter 152C.

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CHAPTER 823
CONTINUING EDUCATION FOR MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—Ch 132]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 133]

481—823.1(152C) Definitions.

“*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 or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

“*Board*” means the board of massage therapy.

“*Continuing education*” means planned, organized learning acts acquired during initial licensure 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.

“*Hands-on training*” means learning techniques that manipulate the soft tissue of the body.

“*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.

“*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 a massage therapist in the state of Iowa.

“*Presenter*” means person(s)/instructor(s) providing continuing education training.

[ARC 8053C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—823.2(152C) Continuing education requirements. Each biennium, each person who is licensed to practice as a massage therapist in this state shall be required to complete a minimum of 16 hours of continuing education. A biennium is a two-year period beginning with the date the license was granted.

823.2(1) The biennial continuing education compliance period runs concurrently with each two-year renewal period. The renewal period begins on the date the initial license is granted and ends two years later on the day before the anniversary date of that initial license.

823.2(2) Requirements for new licensees. Those persons licensed for the first time are not 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 period may be used.

823.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity meeting the requirements of this chapter. These hours must be in accordance with these rules.

823.2(4) No hours of continuing education will be carried over into the next renewal period. 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.

823.2(5) The cost of continuing education is the responsibility of each licensee.

[ARC 8053C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—823.3(152C,272C) Continuing education criteria.

823.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course from the course sponsor.

823.3(2) *Specific criteria.* A licensee shall obtain a minimum of 16 hours of continuing education credit every two years. A minimum of 8 hours of the 16 hours must be earned by completing a program in which instruction is provided in person or through live, real-time interactive media. Although in-person continuing education instruction is not required, the board strongly encourages all licensees to obtain in-person instruction whenever feasible, especially when learning new techniques. Licensees may obtain continuing education hours of credit by:

a. Attending workshops, conferences, or symposiums.

b. Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

c. Teaching curriculum at a school of massage therapy or presenting professional continuing education programs that meet the criteria listed in this subrule. One hour of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. A maximum of 4 hours may be awarded under this paragraph per biennium.

d. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of massage therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

1 academic clock hour = 1 continuing education hour of credit

e. Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

f. Authoring research the results of which are published in a recognized professional publication. The licensee will receive 5 hours of credit per page.

g. Taking courses directly beneficial to business practices necessary for operating a massage practice. Content areas include, but are not limited to, business management, financial management, accounting, tax preparation, marketing, human relations, communication skills, business ethics, and massage ethics.

h. Taking courses related to personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

i. Completing programs that enhance a supplemental or complementary skill set directly related to promoting the public health while providing massage therapy. Content areas include, but are not limited to, CPR, first aid, contraindication training, sanitation, and geriatric care.

j. Completing mandatory reporter training pursuant to Iowa Code sections 232.69 and 235B.16. One hour of credit will be awarded for each hour of completed mandatory reporter training.

k. Passing a board-approved national examination administered by the Federation of State Massage Therapy Boards or the National Certification Board for Therapeutic Massage and Bodywork within the biennial continuing education compliance period. A copy of the applicant's official notification may be used by the board as verification.

[ARC 8053C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 21, 147, 152C and 272C.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 824
DISCIPLINE FOR MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—Ch 131]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 134]

481—824.1(152C) Civil penalties.

824.1(1) Civil penalties may be imposed upon a person or business that employs an individual who is not licensed as a massage therapist. Civil penalties may be imposed upon a person or business that employs an individual who uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles that imply or represent that the employed person practices massage therapy but who is not licensed as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed \$1,000 on a person or business that violates this rule:

(1) Each violation is a separate offense.
(2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;

b. The board’s inspection of any facility that advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested; and

d. The board’s consideration of the following in determining civil penalties:

- (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
- (2) The circumstances leading to or resulting in the violation.
- (3) The severity of the violation and the risk of harm to the public.
- (4) The economic benefits gained by the violator as a result of noncompliance.
- (5) The welfare or best interest of the public.

824.1(2) Civil penalties may be imposed upon a person who is practicing as a massage therapist without a license. Civil penalties may be imposed upon a person who practices as an individual and uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles that imply or represent that the person practices massage therapy but who is not licensed as a massage therapist. A person must be licensed as a massage therapist to practice in this state as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed \$1,000 on a person who violates this rule:

(1) Each violation is a separate offense.
(2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;

b. The board’s inspection of any facility that advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested;

d. The board’s consideration of the following in determining civil penalties:

- (1) Whether the amount imposed will be a substantial economic deterrent to the violation.
- (2) The circumstances leading to or resulting in the violation.
- (3) The severity of the violation and the risk of harm to the public.
- (4) The economic benefits gained by the violator as a result of noncompliance.
- (5) The welfare or best interest of the public.

824.1(3) Issuing an order or citation.

a. The board shall provide a written notice and the opportunity to request a hearing on the record.

b. The hearing must be requested within 30 days of the issuance of the notice and shall be conducted according to Iowa Code chapter 17A.

c. The board may, in connection with a proceeding under this subrule, issue subpoenas to require the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

824.1(4) Judicial review.

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction.

824.1(5) A person is not in violation of the statute or rules if that person practices massage therapy for compensation while in attendance at a school offering a curriculum meeting the requirements of 481—Chapter 822 and is under the supervision of a member of the school's faculty.

[ARC 8054C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 825
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 135]

481—825.1(17A,272C) Board of massage therapy adoption of uniform and model rules. The board hereby adopts by reference the following:

825.1(1) to **825.1(9)** Reserved.

825.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 826 to 840
Reserved

BOARD OF CHIROPRACTIC

CHAPTER 841

LICENSURE OF CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.10(151) to 645—40.13(151), 645—40.15(151) and 645—40.16(151)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 41]

481—841.1(151) Definitions. The following definitions will be applicable to the rules of the Iowa board of chiropractic:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the Iowa board of chiropractic.

“*Council on Chiropractic Education*” or “*CCE*” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws.

“*Department*” means the Iowa department of inspections, appeals, and licensing.

“*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.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice chiropractic to an applicant who is or has been licensed in another state and meets the criteria for licensure in this state.

“*NBCE*” means the National Board of Chiropractic Examiners.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—841.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(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.

“*SPEC*” means Special Purposes Examination for Chiropractic, which is an examination provided by the NBCE that is designed specifically for utilization by state or foreign licensing agencies.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.2(151) Initial licensure.

841.2(1) To apply for a license, the applicant will complete an online application packet and pay the nonrefundable application fee.

a. If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application and submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

b. A person who is licensed in another jurisdiction and cannot satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

c. An application not completed according to guidelines will not be reviewed by the board.

d. The applicant will request the accredited chiropractic school submit official copies of the applicant’s transcripts to the board office.

e. The applicant will submit an official certificate of completion of 120 hours of physiotherapy that includes a practicum component from a board-approved chiropractic college.

f. The applicant will pass all parts of the NBCE examination as outlined in rule 481—841.3(151).

g. The applicant will submit a copy of the chiropractic diploma.

841.2(2) Licensees who were issued their licenses within six months prior to the renewal date are not required to renew their licenses until the renewal date two years later.

841.2(3) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Maintained upon written request from the candidate.

841.2(4) A license will be publicly displayed in the licensee’s primary place of practice.

841.2(5) Licensees are required to notify the board of chiropractic of changes in residence or place of practice within 30 days after the change of address occurs.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.3(151) Examination requirements.

841.3(1) Applicants will submit the application for the NBCE examination and the fee directly to the NBCE.

841.3(2) The following criteria will apply for the NBCE:

a. Prior to July 1, 1973, applicants will provide proof of being issued a basic science certificate.
b. After July 1, 1973, applicants will provide proof of successful completion of the required examination from the NBCE. The required examination will meet the following criteria:

(1) Examinations completed after July 1, 1973, will be defined as the successful completion of Parts I and II of the NBCE examination.

(2) Examinations completed after August 1, 1976, will be defined as the successful completion of Parts I, II and Physiotherapy of the NBCE examination.

(3) Examinations completed after January 1, 1987, will be defined as the successful completion of Parts I, II, III and Physiotherapy of the NBCE examination.

(4) Examinations completed after January 1, 1996, will be defined as satisfactory completion of Parts I, II, III, IV and Physiotherapy of the NBCE examination.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.4(151) Educational qualifications.

841.4(1) An applicant will present an official transcript verifying graduation from a CCE-accredited and board-approved college of chiropractic.

841.4(2) Foreign-trained chiropractic physicians will:

a. Provide an equivalency evaluation of their educational credentials processed by the International Education Research Foundation, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate will bear the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a chiropractic program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.5(151) Temporary certificate.

841.5(1) The board may issue a temporary certificate to practice chiropractic at its discretion if the issuance is in the public interest and the applicant demonstrates a need for the temporary certificate and meets the professional qualifications for licensure.

841.5(2) Demonstrated need. An applicant must submit information explaining the demonstrated need, how the issuance would serve the public interest, the scope of practice requested, and why a temporary certificate should be granted. To meet the demonstrated need requirement, the applicant will show the need meets one of the following conditions:

a. The applicant will provide chiropractic services in connection with a special activity, event or program conducted in this state;

b. The applicant will provide chiropractic services in connection with a state emergency as proclaimed by the governor;

c. The applicant previously held an unrestricted license to practice chiropractic in this state and will provide gratuitous chiropractic services as a voluntary public service; or

d. The applicant will provide chiropractic services in connection with an urgent need.

841.5(3) Qualifications for licensure include the following:

a. Complete an online application packet on the Iowa board of chiropractic website and pay the nonrefundable application fee.

b. If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

c. Provide a copy of a chiropractic diploma.

841.5(4) A temporary certificate will be issued for one year to fulfill the demonstrated need as described in subrule 841.5(2).

841.5(5) An applicant or temporary certificate holder who has been denied a temporary certificate may appeal the denial pursuant to rule 481—500.10(17A,147,272C). A temporary certificate holder is subject to discipline for any grounds for which licensee discipline may be imposed.

841.5(6) A temporary certificate holder who meets all licensure conditions as specified in rule 481—841.2(151) may obtain a permanent license in lieu of the temporary certificate. To obtain a permanent license, the applicant will

submit any additional documentation required for permanent licensure that was not submitted as a part of the temporary certificate application. The applicant may receive fee credit toward the permanent licensure fee equivalent to the fee paid for the temporary certificate if the application for the permanent license and all required documentation are received by the board prior to the expiration of the temporary certificate.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.6(151) License renewal.

841.6(1) The license renewal period for a license to practice begins on July 1 of an even numbered year and ends on June 30 of the next even numbered year.

841.6(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.

841.6(3) A licensee applying for renewal will:

a. Meet the continuing education requirements of rule 481—844.2(272C) and the mandatory reporting requirements of subrule 841.8(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. Complete the online renewal application, pay the fee, and attach certificate of completing continuing education hours on the Iowa board of chiropractic website before the expiration date.

841.6(4) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children, dependent adults or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training for identifying and reporting child abuse, dependent adult abuse or both. A licensee will maintain written documentation of training completion for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver from the board demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in paragraph 841.8(4) "a."

841.6(5) A two-year license will be issued after the requirements of rule are met. If the board receives adverse information on the renewal application, the board may refer the adverse information for further consideration or disciplinary investigation.

841.6(6) Late renewal. The licensee is responsible for renewing the license prior to expiration every two years. The licensee will complete the renewal requirements and pay the late fee within the 30-day grace period.

841.6(7) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.7(17A,147,272C) Requirements for reactivation. To apply for reactivation, a licensee will:

841.7(1) Complete an online reactivation application on the Iowa board of chiropractic website and pay the nonrefundable reactivation fee.

841.7(2) Provide verification of current competence to practice as a chiropractic physician 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. If licensed in another jurisdiction, submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(2) Proof. Submit proof of completing 40 hours of continuing education within two years of application.

b. If the license has been on inactive status for more than five years, an applicant must:

(1) Send verification. Submit a license verification document that discloses if disciplinary action was taken against the applicant from every jurisdiction in which the applicant has been licensed.

(2) Submit proof of completing 40 hours of continuing education within two years of application.

(3) Send verification of passing the SPEC if the applicant does not have a current license and has not had an active license in the United States during three of the past five years.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—841.8(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation prior to practicing in the state.

[ARC 7966C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 151 and 272C.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 842
COLLEGES FOR CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.9(151)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 42]

481—842.1(151) Definitions. For the purposes of these rules, the following definitions will apply:

“Chiropractic intern” means a chiropractic student of an approved college of chiropractic in the student’s last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to complete a preceptorship program, as authorized by these rules.

“Chiropractic preceptor” means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic, and who meets the requirements of these rules.

“Chiropractic resident” means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board, and who is not licensed in any state, but who is practicing under a chiropractic preceptorship authorized under these rules.

“Chiropractic student” means a student of an approved college of chiropractic.

“Council on Chiropractic Education” or *“CCE”* means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from CCE.

“Preceptorship practice” means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

“60-minute hour” means at least 50 minutes of resident attendance with no more than 10 minutes for note taking and breaks.

[ARC 7967C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—842.2(151) Board-approved chiropractic colleges. Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic that the chiropractic program meets the following requirements:

842.2(1) The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

842.2(2) The core curriculum meets the requirements of the CACCE standards and, in addition:

- a. Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;
- b. Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and
- c. Includes a minimum of 120 hours of physiotherapy coursework with a clinical practical component on the procedures covered in the course.

842.2(3) The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic.

842.2(4) Transcripts include entries for all completed coursework.

[ARC 7967C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—842.3(151) Practice by chiropractic interns and chiropractic residents. A student enrolled in a board-approved chiropractic preceptorship program in the state of Iowa may treat patients without obtaining an Iowa license, provided the requirements of these rules are met.

[ARC 7967C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—842.4(151) Approved chiropractic preceptorship program. The board will approve a chiropractic college’s preceptorship program if the program meets the following requirements:

842.4(1) The preceptorship program meets current CCE standards for consumer protection.

842.4(2) The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

842.4(3) Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

842.4(4) Chiropractic residents who participate in the postgraduate preceptorship program have graduated from a chiropractic college approved by the board.

842.4(5) All chiropractic physicians who serve as preceptors will be approved under rule 481—842.5(151).

842.4(6) The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

842.4(7) The chiropractic preceptor will supervise no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic of the preceptorship cancellation. The notice shall include reasons for cancellation of the preceptorship.

[ARC 7967C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—842.5(151) Approved chiropractic physician preceptors.

842.5(1) A chiropractic physician will be approved to be a chiropractic physician preceptor if the following criteria are met:

- a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;
- b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and
- c. The chiropractic physician has not had any formal disciplinary action.

842.5(2) The role of the chiropractic physician preceptor will include:

- a. Responsibility for supervising the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.
- b. Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The intern or resident will wear a badge identifying that person as an intern or resident at all times in the presence of preceptorship patients.
- c. Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.
- d. Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.
- e. Notifying the preceptorship program within 30 days of either of the following actions:
 - (1) If the preceptor has any formal disciplinary action taken by any licensing entity; or
 - (2) If the preceptor is a party to any malpractice settlement or judgment.

[ARC 7967C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—842.6(151) Termination of preceptorship. A preceptorship may terminate upon the occurrence of one of the following events:

842.6(1) Interns. The intern graduates from a board-approved college of chiropractic.

842.6(2) Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

842.6(3) Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 843
PRACTICE OF CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.1(151) and 645—40.17(151) to 645—40.24(147,272C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 43]

481—843.1(151) Definitions. The following definitions will be applicable to the rules of the Iowa board of chiropractic.

“Active chiropractic physiotherapy” means therapeutic treatment performed by the patient, including but not limited to exercises and functional activities that promote strength, endurance, flexibility, and coordination.

“Acupuncture” means the same as defined in Iowa Code section 148E.1.

“Adjustment/manipulation of neuromusculoskeletal structures” means the use by a doctor of chiropractic of a skillful treatment based upon differential diagnosis of neuromusculoskeletal structures and procedures related thereto by the use of passive movements with the chiropractic physician’s hands or instruments in a manipulation of a joint by thrust so the patient’s volitional resistance cannot prevent the motion. The manipulation is directed toward the goal of restoring joints to their proper physiological relationship of motion and related function, or stimulation of joint receptors. Movement of the joint is by force beyond its active limit of motion, but within physiologic integrity. Adjustment or manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered by the doctor of chiropractic and ends at the limit of anatomical integrity. Adjustment or manipulation as described in this definition is directed to the goal of the restoration of joints to their proper physiological relationship and associated functions of motion and related function, release of adhesions or stimulation of joint receptors. Adjustment or manipulation as described in this definition is by hand or instrument. The primary emphasis of this adjustment or manipulation is upon specific joint element adjustment or manipulation and treatment of the articulation and adjacent tissues of the neuromusculoskeletal structures of the body and nervous system, using one or more of the following:

1. Impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that patient volitional resistance is overcome, commencing where the motion encounters the elastic barrier of resistance and ending at the limit of anatomical integrity.

2. Instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust.

3. Light force adjusting, utilizing sustained joint traction or applied directional pressure, or both, that may be combined with passive motion to restore joint mobility.

4. Long distance lever adjusting, utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

“Anatomic barrier” means the limit of motion imposed by anatomic structure, the limit of passive motion.

“CCCA” means the Certified Chiropractic Clinical Assistant program offered by the FCLB.

“Certified chiropractic assistant” means a person who has completed a certified chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

“Chiropractic insurance consultant” means an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company.

“Chiropractic manipulation” means care of an articular dysfunction or neuromusculoskeletal disorder by manual or mechanical adjustment of any skeletal articulation and contiguous articulations.

“Differential diagnosis” means to examine the body systems and structures of a human subject to determine the source, nature, kind or extent of a disease, vertebral subluxation, neuromusculoskeletal disorder or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

“Elastic barrier” means the range between the physiologic and anatomic barrier of motion in which passive ligamentous stretching occurs before tissue disruption.

“Extremity manipulation” means a corrective thrust or maneuver by a doctor of chiropractic by hand or instrument based upon differential diagnosis of neuromusculoskeletal structures applied to a joint of the appendicular skeleton.

“FCLB” means the Federal Chiropractic Licensing Board.

“Malpractice” means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

“Mobilization” means movement applied singularly or repetitively within or at the physiological range of joint motion, without imparting a thrust or impulse, with the goal of restoring joint mobility.

“PACE” means Providers of Approved Continuing Education and is the signature program of the FCLB.

“Passive chiropractic physiotherapy” means therapeutic treatment administered and received by the patient, including but not limited to mechanical, electrical, thermal, or manual methods.

“Physiologic barrier” means the limit of active motion, which can be altered to increase range of active motion by warm-up activity.

“Practice of acupuncture” means the same as defined in Iowa Code section 148E.1.

“Supervising chiropractic physician” means the Iowa-licensed chiropractor responsible for supervision of services provided to a patient by a certified chiropractic assistant.

“Supervision” means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.2(147,272C) Principles of chiropractic ethics. The following principles of chiropractic ethics are adopted by the board for the practice of chiropractic in this state.

843.2(1) These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician’s conduct in the chiropractic physician’s relationship with patients, with colleagues, with members of allied professions, and with the public.

843.2(2) The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of the person. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

843.2(3) Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

843.2(4) A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

843.2(5) The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

843.2(6) A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician’s ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

843.2(7) A chiropractic physician should not dispose of services under terms or conditions that tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

843.2(8) A chiropractic physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of chiropractic service may be enhanced thereby.

843.2(9) A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

843.2(10) The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities that have the purpose of improving both the health and well-being of the individual and the community.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.3 Reserved.

481—843.4(151) Chiropractic insurance consultant.

843.4(1) A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of:

a. Recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules, and

b. The propriety of chiropractic diagnosis and care.

843.4(2) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, will indicate on their licensure renewals that they are engaged in those activities and the location where those activities are performed.

843.4(3) Licensed chiropractic physicians will not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

- a. Hold a current license in Iowa.
- b. Have practiced chiropractic in the state of Iowa during the immediately preceding five years.
- c. Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant. Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.5(151) Acupuncture. A chiropractic physician who engages in the practice of acupuncture will maintain documentation that shows the chiropractic physician has successfully completed a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the instructor on site. The licensee will maintain a transcript or certification of completion showing the licensee's name, school or course sponsor's name, date of course completion or graduation, grade or other evidence of successful completion, and number of course hours. The licensee will provide the transcript or certification of completion to the board upon request.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.6(151) Adjunctive procedures.

843.6(1) Adjunctive procedures are defined as procedures related to differential diagnosis.

843.6(2) For any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

843.6(3) Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures that they have been taught in approved colleges of chiropractic must adequately show the board that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.7(151) Physical examination. The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures will not include prescription drugs or operative surgery.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.8(151) Recordkeeping.

843.8(1) Chiropractic physicians will maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records will be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Recordkeeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

843.8(2) Chiropractic physicians will maintain clinical records for each patient, which include all of the following:

- a. *Personal data.*
 - (1) Name;
 - (2) Date of birth;
 - (3) Address; and
 - (4) Name of parent or guardian if a patient is a minor.
- b. *Health history.* Records will include information from the patient or the patient's parent or guardian regarding the patient's health history.
- c. *Patient's reason for visit.* When a patient presents with a chief complaint, clinical records will include the patient's stated health concerns.
- d. *Clinical examination progress notes.* Records will include chronological dates and descriptions of the following:
 - (1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;
 - (2) Plan of intended treatment, including description of treatment, frequency and duration;
 - (3) Services rendered and any treatment complications;
 - (4) All testing ordered or performed;
 - (5) Diagnostic imaging report if imaging procedure is ordered or performed;

(6) Sufficient data to support the recommended treatment plan.

e. Clinical record. Each page of the clinical record will include the patient's name, the date information was recorded and the doctor's name or facility's name.

843.8(3) Retention of records. A chiropractic physician will maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors will be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards will be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

843.8(4) Electronic recordkeeping. When electronic records, which include both electronically created records and scanned paper records, are utilized, a chiropractic physician will maintain either a duplicate hard-copy record or a backup electronic record.

843.8(5) Correction of written records. Notations will be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

843.8(6) Correction of electronic records. Any alterations made after the date of service will be visibly recorded. All alterations will include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

843.8(7) Abbreviations will be standard and common to all health care disciplines. Nonstandard abbreviations will be referenced with a key that is included in the record when the record is requested.

843.8(8) Confidentiality and transfer of records. Chiropractic physicians will preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician will furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date of transfer and method of transfer will be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records but may not refuse to transfer records for nonpayment of any fees. A written request may be required before the transfer of the record(s), including, for example, compliance with HIPAA regulations. In certain instances, a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

843.8(9) Retirement or discontinuance of practice. A licensee, upon retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community, will:

a. Notify all active patients, in writing one month prior to discontinuation of practice. The notification will include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

b. Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

For the purposes of this subrule, "active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

843.8(10) Recordkeeping procedures and standards will be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

843.8(11) A chiropractic physician who offers a prepayment plan for chiropractic services will:

a. Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, will include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient will receive a prompt refund of any unused funds upon request. The refund will be calculated based on a defined method, which will be clearly set forth in the written prepayment policy statement.

b. Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

c. Maintain the signed and dated written prepayment policy statement in the patient's record.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.9(151) Billing procedures.

843.9(1) Chiropractic physicians will maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records will contain all of the following:

- a. Name, date of birth and address.
- b. Diagnosis indicated with description or ICD code.
- c. Services provided with description or CPT code.
- d. Dates of services provided.
- e. Charges for each service provided.
- f. Payments made for each service and indication of the party providing payment.
- g. Dates payments are made.
- h. Balance due for any outstanding charges.

843.9(2) Chiropractic physicians will preserve the confidentiality of billing records.

843.9(3) Upon signed request of the patient, the chiropractic physician will furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any outstanding balance.

843.9(4) Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician's name.

843.9(5) Chiropractic physicians:

- a. Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.
- b. Who provide clinical services are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs that results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

843.9(6) A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician's name or identifying number(s). Signature stamps or electronically generated signatures will be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

843.9(7) Chiropractic physicians will not knowingly:

- a. Increase charges when a patient utilizes a third-party payment program.
- b. Report incorrect dates or types of service on any billing documents.
- c. Submit charges for services not rendered.
- d. Submit charges for services rendered that are not documented in a patient's record.
- e. Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.
- f. Bill patients or make claims under a third-party payer contract in a manner that misrepresents the nature of the chiropractic services that have been performed.

843.9(8) For cases not involving third-party payers, nothing in this rule will prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician will document time of service or hardship case fee reduction provisions in the patient record.

843.9(9) The chiropractic physician will not enter into an agreement to waive, abrogate, or rebate the deductible or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician will document any hardship case fee reduction provisions in the patient record.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—843.10(151) Certified chiropractic assistants.

843.10(1) *Supervisory responsibilities of the chiropractic physician.*

- a. The supervising chiropractic physician will ensure at all times that the certified chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.
- b. The supervising chiropractic physician may delegate services to a certified chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules will be grounds for discipline under 481—Chapter 845.
- c. A chiropractic physician will not delegate to the certified chiropractic assistant the following:

- (1) Services outside the chiropractic physician's scope of practice;
- (2) Initiation, alteration, or termination of chiropractic treatment programs;
- (3) Chiropractic manipulation and adjustments;
- (4) Diagnosis of a condition.

d. A supervising chiropractic physician will ensure that a certified chiropractic assistant is informed of the supervisor and certified chiropractic assistant relationship and is responsible for all services performed by the certified chiropractic assistant.

843.10(2) *Education requirements for certified chiropractic assistants.*

a. The supervising chiropractic physician will ensure that a certified chiropractic assistant has completed a professional certification program. A certified chiropractic assistant training program will include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the certified chiropractic assistant. Any certified chiropractic assistant training program will be provided by an approved CCE-accredited chiropractic college, FCLB, PACE, CCEA, or a chiropractic state association.

b. Certified chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours will be clinical experience under the supervision of the chiropractic physician.

c. Certified chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours will be clinical experience under the supervision of the chiropractic physician.

d. If both paragraphs "*b*" and "*c*" of this subrule apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures will be required for a total of 24 hours of instruction.

e. The supervising chiropractic physician will provide a written attestation to the chiropractic college that the certified chiropractic assistant has completed the clinical experience. The college will issue a separate certificate of completion for the active or passive chiropractic training program as defined in paragraphs "*b*," "*c*," and "*d*" of this subrule.

f. The chiropractic physician will maintain in the chiropractic physician's primary place of business proof of the certified chiropractic assistant's completion of the training program. Copies of such documents will be provided to the board upon request.

[ARC 7968C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 151, 272C, and 514F.

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CHAPTER 844
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—Ch 43]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 44]

481—844.1(151) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the Iowa board of chiropractic.

“*Clinical case management*” means coursework pertaining to diagnosis, treatment, and appropriate referral or coordination of care.

“*Continuing education*” means planned, organized learning acts meeting the standards set forth in these rules, acquired during licensure, and 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 chiropractic 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 and certificate of completion.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

[ARC 7969C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—844.2(272C) Continuing education requirements.

844.2(1) The biennial continuing education compliance period extends for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later.

844.2(2) Requirements of new licensees. Continuing education is not required in the first renewal period with the exception of two hours in the content areas of 481—Chapters 841 through 846 and Iowa Code chapter 151. Continuing education hours acquired any time from the initial licensing until the second license renewal, with the exception of two hours in the content areas of 481—Chapters 841 through 846 and Iowa Code chapter 151, may be used after the first renewal period. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

844.2(3) Hours of continuing education credit will be obtained by attending and participating in a continuing education activity as stipulated in rule.

844.2(4) No hours of continuing education will be carried over into the next biennium except as stated in subrule 844.2(2) and subparagraph 844.3(2)“a”(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

844.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7969C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—844.3(151,272C) Standards.

844.3(1) *General criteria.* A continuing education activity must meet the following criteria:

a. Constitute an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertain to subject matters that integrally relate to the practice of the profession;

c. Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfill stated program goals, objectives, or both; and

e. Provide proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program clock hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

844.3(2) *Specific criteria.*

a. Continuing education hours of credit will be obtained by completing:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. At least 20 of these hours will be earned by completing a program in which an instructor conducts the class by employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any online instruction, that complies with conditions specified in subrule 844.3(1).

(2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.

(3) A minimum of 12 hours per biennium of continuing education in the field of acupuncture is required for licensees certified in acupuncture and may be used toward clinical case management if the chiropractic physician is actively engaged in the practice of acupuncture. Chiropractic physicians not engaged in the active practice of acupuncture may take continuing education hours in the field of acupuncture for continuing education credit.

(4) Classes on child abuse and dependent adult abuse that meet the criteria in 481—subrules 841.8(4) and 844.3(1).

(5) Two hours of continuing education credit is required in the first biennial renewal period and one hour every biennial renewal period after that in the content areas of the administrative rules related to chiropractic physicians in Iowa, found at 481—Chapters 841 through 846 and the statutory provisions specific to the practice of chiropractic in Iowa Code chapter 151.

b. Continuing education hours of credit may be obtained by:

(1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.

(2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion.

(3) Presenting a continuing education program once per biennium for the initial presentation of the program.

(4) Completing a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.

(5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

(6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

844.3(3) *Specific criteria for presenters.* All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

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These rules are intended to implement Iowa Code section 272C.2 and chapter 151.

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◇ Two or more ARCs

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CHAPTER 845

DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—Ch 44]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 45]

481—845.1(151,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

845.1(1) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. This includes representations utilizing the term “physical therapy” when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein will be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

845.1(2) Use of untruthful or improbable statements in advertisements and marketing. Use of untruthful or improbable statements in advertisements includes but is not limited to an action by a licensee in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation, or representations that are likely to cause the average person to misunderstand. The term “advertisements” includes oral, written, electronic, and other types of communication disseminated by or at the direction of a licensee for the purpose of encouraging or soliciting the use of the licensee’s services.

845.1(3) Violate the provisions of direct health care agreements pursuant to Iowa Code section 135N.1.

845.1(4) Failure to maintain a patient’s record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

This rule is intended to implement Iowa Code chapters 147, 151, and 272C.

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[◇] Two or more ARCs

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CHAPTER 846
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 46]

481—846.1(17A,272C) Board of chiropractic adoption of uniform and model rules. The board hereby adopts by reference the following:

846.1(1) to **846.1(9)** Reserved.

846.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

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CHAPTERS 847 to 860
Reserved

BOARD OF ATHLETIC TRAINING

CHAPTER 861

LICENSURE OF ATHLETIC TRAINERS

[Prior to 4/17/02, see rules 645—350.6(147,152D) to 645—350.10(147,152D)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 351]

481—861.1(152D) Definitions. In addition to the definitions included in Iowa Code section 152D.1, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Directing physician*” means a physician who supervises the athletic training services provided by a licensed athletic trainer.

“*Direction*” means that a physician directs the performance of a licensed athletic trainer in the development, implementation, and evaluation of an athletic training service plan as set out in rule 481—861.6(152D). Direction shall not be construed as requiring the personal presence of that physician at each activity of the licensed athletic trainer. It is the responsibility of the licensed athletic trainer to ensure that the practice of athletic training is carried out only under the direction of a licensed physician.

“*Endorsement*” means the issuance of an Iowa license to practice athletic training to an applicant who is currently licensed in another state that has the same or similar qualifications to those required in Iowa.

“*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.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

“*License expiration date*” means February 28 of each odd-numbered year.

“*Mandatory reporter training*” means the training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code sections 323.69 and 235B.16.

“*Physical reconditioning*” means the part of the practice of athletic training that combines physical treatment, rehabilitation and exercise and is carried out under the orders of a physician or physician assistant. Physical treatment is part of a service plan that includes but is not limited to the continued use of any of the following: cryotherapy, thermotherapy, hydrotherapy, electrotherapy, or the use of mechanical devices.

“*Physician*” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry under the laws of this state.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—861.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(272C). Once the license is reinstated, the licensee may apply for active status.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.2(152D) Initial licensure.

861.2(1) Requirements for licensure. The applicant shall:

a. Submit a complete online application and pay the nonrefundable fee specified in rule 481—507.1(147,152D). If the application is not completed according to the instructions, the application will not be reviewed by the board.

b. Submit official copies of academic transcripts directly from the school to the board of athletic training. No application will be considered by the board until official copies of academic transcripts have been received.

c. Have successfully completed the BOC examination. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the Iowa board of athletic training.

d. Provide verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction.

861.2(2) 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 actions taken against the license.

861.2(3) Licensure by endorsement. An athletic trainer applicant who holds a license from the District of Columbia or another state, territory, province or foreign country may be eligible for licensure by endorsement and may direct the BOC to submit:

- a. A current certification status, or
- b. A passing score on the examination of the BOCs.

861.2(4) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

861.2(5) 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. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.3(152D) Educational qualifications.

861.3(1) An applicant for licensure to practice as an athletic trainer shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university.

861.3(2) Foreign-trained athletic trainers shall:

a. Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website www.ierf.org or email at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation. An applicant who has passed the BOC examination is exempt from this requirement.

b. Provide a copy of the certificate or diploma awarded to the applicant from an athletic training program in the country in which the applicant was educated. An applicant who has passed the BOC examination is exempt from this requirement.

c. Receive a final determination from the board regarding the application for licensure.

d. Pass the BOC examination. Official results are to be submitted directly to the board from the BOC.

861.3(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.4(152D) Examination requirements.

861.4(1) The examination required by the board shall be the BOC examination. Application and information may be obtained from the BOC Offices, 1411 Harney Street, Suite 200, Omaha, NE 68102; telephone 402.559.0091; website www.bocatc.org or email at BOC@bocatc.org.

861.4(2) The applicant has responsibility for:

- a. Making arrangements to take the national examination; and
- b. Arranging to have the examination scores sent directly to the board from BOC.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.5(152D) Documentation of physician direction. Each licensee must maintain documentation of physician direction. It is the responsibility of the licensee to ensure that documentation of physician direction is obtained and maintained, including the following:

1. Athletic training service plan as set out in rule 481—861.6(152D);
2. Dates and names of physician and physician assistant orders or referrals;
3. Initial evaluations and assessments;
4. Treatments and services rendered, with dates; and
5. Dates of subsequent follow-up care.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.6(152D) Athletic training standards of professional practice. Athletic training service plans shall be composed of the following components as taken from the Board of Certification Standards of Professional Practice (January 2018):

861.6(1) Practice Standards.

861.6(2) Code of Professional Responsibility.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.7(147) License renewal.

861.7(1) The biennial license renewal period for a license to practice athletic training shall begin on March 1 of each odd-numbered year and end on February 28 of the next odd-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.

861.7(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.

861.7(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—862.2(152D) and the mandatory reporting requirements of subrule 861.9(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.

861.7(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 training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 861.7(4) "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 training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 861.7(4) "e."

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 861.7(4) "a" through "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.

f. The board may select licensees for audit of compliance with the requirements in paragraphs 861.7(4) "a" through "e."

861.7(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

861.7(6) A person licensed to practice as an athletic trainer shall keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

861.7(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

861.7(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 athletic trainer in Iowa until the license is reactivated. A licensee who practices as an athletic trainer 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 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

861.8(1) Submit a reactivation application on a form provided by the board.

861.8(2) Pay the reactivation fee that is due as specified in 481—Chapter 507.

861.8(3) Provide verification of current competence to practice as an athletic trainer 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an 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 from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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; and

(3) Verification of current BOC certification.

861.8(4) Submit a sworn statement of previous practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant worked as an athletic trainer for at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—861.9(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—861.15(17A,147,272C) prior to practicing as an athletic trainer in this state.

[ARC 7928C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

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CHAPTER 862
CONTINUING EDUCATION FOR ATHLETIC TRAINERS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 352]

481—862.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*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 athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Continuing education*” means the same as defined in Iowa Code section 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

[ARC 7929C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—862.2(152D) Continuing education requirements.

862.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on March 1 of each odd-numbered year and ending on February 28 of the next odd-numbered year. Each biennium, each person who is licensed to practice as an athletic trainer in this state will have the responsibility to finance the cost and be required to maintain BOC certification or complete a minimum of 40 hours of continuing education approved by the board.

862.2(2) Requirements for new licensees. Those persons licensed for the first time or being licensed for the first time after a temporary license shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to maintain BOC certification or complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

862.2(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.

862.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the 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.

[ARC 7929C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—862.3(152D,272C) Standards.

862.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

862.3(2) Specific criteria. Continuing education may be obtained through any of the following:

a. Completing a course provided by a BOC-approved provider of continuing education.

b. Attending workshops, conferences, or symposiums.

c. Authoring research, the results of which are published in a recognized professional publication. A licensee shall receive five hours of credit per page.

d. Presenting professional programs that meet the criteria of this chapter. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presenting at a professional program does not include teaching a class at an institution of higher learning at which the applicant is regularly and

primarily employed, nor does it include presentations to the lay public. A licensee may be granted no more than ten hours of continuing education credit per biennium for presenting professional programs.

e. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of athletic training must be maintained for audit. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic trimester hour = 12 continuing education hours

1 academic quarter hour = 10 continuing education hours

[ARC 7929C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 152D.

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CHAPTER 863
DISCIPLINE FOR ATHLETIC TRAINERS

[Prior to 4/17/02, see 645—350.13(272C)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 353]

481—863.1(152D) Definitions.

“*Board*” means the board of athletic training.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as an athletic trainer in Iowa pursuant to Iowa Code chapter 152D and 481—Chapters 861 through 864.

[ARC 7930C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—863.2(152D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in 481—Chapter 504 when the board determines that any of the following acts or offenses listed in such chapter or in Iowa Code section 147.55 have occurred:

863.2(1) Professional incompetency. Professional incompetency includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other athletic trainers in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care that is ordinarily exercised by the average athletic trainer acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed athletic trainer in this state.

863.2(2) Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

863.2(3) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of athletic training in another state, district, territory or country.

863.2(4) Knowingly aiding, assisting, or advising a person to unlawfully practice as an athletic trainer.

863.2(5) Representing oneself as a licensed athletic trainer when one’s license has been suspended or revoked, or when one’s license is on inactive status.

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¹ February 15, 2012, effective date of 353.2(12) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 10, 2012.

CHAPTER 864
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 354]

481—864.1(17A,272C) Board of athletic training adoption of uniform and model rules. The board hereby adopts by reference the following:

864.1(1) to **864.1(9)** Reserved.

864.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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CHAPTERS 865 to 884
Reserved

BOARD OF PSYCHOLOGY

CHAPTER 885

LICENSURE OF PSYCHOLOGISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 240]

481—885.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“ASPPB” means the Association of State and Provincial Psychology Boards.

“Board” means the board of psychology.

“Certified health service provider in psychology” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“Clinical experience” means the provision of health services in psychology by the applicant to individuals or groups of clients/patients. Clinical experience does not include teaching or research performed in an academic setting.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a psychologist or health service provider in psychology 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 psychology to an applicant who is or has been licensed in another jurisdiction.

“Mandatory training” means the requirements found in Iowa Code section 232.69.

“National examination” means the Examination for Professional Practice in Psychology (EPPP).

“Provisional license” means a license issued to a person who is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure.

“Reactivate” or *“reactivation”* means the process as outlined in rule 481—885.11(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in rule 481—506.31(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.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.2(154B) Requirements for initial psychology licensure. The following criteria shall apply to licensure:

885.2(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.16(147,154B).

885.2(2) Except as otherwise stated in these rules, no application will be considered by the board until:

a. Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

b. Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors.

885.2(3) An applicant shall successfully pass the national examination.

885.2(4) The applicant shall have the national examination score sent directly from the ASPPB to the board.

885.2(5) Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.3(154B) Educational qualifications. An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

885.3(1) At the time of an applicant’s graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

- (3) Designated by the ASPPB/National Register; or
- b. The applicant holds current board certification from the American Board of Professional Psychology; or
- c. The applicant possesses a postdoctoral respecialization certificate from a program accredited by the American Psychological Association.

885.3(2) Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of subrule 885.3(1) will:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Psychologists, 1200 New York Avenue NW, Suite 800, Washington, D.C. 20005, telephone 202.783.7663, website www.nationalregister.org, or by an evaluation service with membership in the National Association of Credential Evaluation Services at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate will bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in subrule 885.3(1).

b. Submit evidence of meeting all other requirements for licensure stated in these rules.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.4(154B) Examination requirements. An applicant will pass the national examination to be eligible for licensure in Iowa.

885.4(1) To be eligible to take the national examination, the applicant will:

- a. Meet all requirements of subrules 885.2(1) and 885.2(2); and
- b. Provide official copies of academic transcripts sent directly from the school to the board of psychology verifying completion of a doctoral degree in psychology in accordance with rule 481—885.3(154B).

885.4(2) The EPPP passing score shall be utilized as the Iowa passing score.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.5(154B) Postdoctoral residency.

885.5(1) The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

885.5(2) During the postdoctoral residency, the supervisee will competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

- a. The supervisee and supervisor will complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.
- b. A supervisor will not have more than three concurrent full-time supervisees or the equivalent in part-time supervisees. Full-time is defined as 40 hours per week.
- c. The supervisee and supervisor will meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.
- d. The supervisor will provide supervision at all times, which means the supervisor will be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor will identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.
- e. The supervisee and supervisor will have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.
- f. The supervisor will establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.
- g. The supervisor will provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.
- h. The supervisor and supervisee will ensure clients are informed regarding the supervisee's status and the sharing of information between the supervisee and supervisor.
- i. The supervisor will have reasonable access to the clinical records corresponding to the work being supervised. The supervisor will countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervisor.

j. All services will be offered in the name of the supervisor. The supervisee and supervisor will ensure that the supervisee uses a title in accordance with rule 481—885.13(154B,147).

k. The fee schedule and receipt of payment will remain the sole domain of the supervisor or employing agency.

l. The supervisor will maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee's competence in each, and the type and outcome of all procedures.

m. The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.6(154B) Certified health service provider in psychology.

885.6(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 885.6(2) and at least one year of clinical experience in a health service setting that meets the requirements for postdoctoral residency stated in rule 481—885.5(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Psychologists to verify completion of the required clinical experience.

b. Submit a completed application and nonrefundable application fee along with supporting documentation. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Renew the certificate biennially at the same time as the psychology license.

885.6(2) *Requirements of the organized health service training program.* Internship programs in professional psychology that are accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

a. Provides the intern with a planned, programmed sequence of training experiences.

b. Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.

c. Has two or more doctoral-level psychologists on the staff who serve as supervisors, at least one of whom is actively licensed by the board of psychology in the jurisdiction in which the program exists.

d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.

e. Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.

f. Ensures that trainees have a minimum of 375 hours of direct patient contact.

g. Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.

h. Has training that is at the postclerkship, postpracticum, and postexternship level.

i. Has a minimum of two interns at the internship level of training during any period of training.

j. Designates for internship-level trainees titles such as "intern," "resident," "fellow," or other designation of trainee status.

k. Has a written statement or brochure that describes the goals and content of the internship, states clear expectations for quantity and quality of trainees' work and is made available to prospective interns.

l. Provides a minimum of 1,500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.7(154B) Requirements for provisional license.

885.7(1) Predoctoral internship. An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:

- a. Submit a completed provisional application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.16(147,154B).
- b. A copy of the applicant's acceptance letter for the predoctoral internship.
- c. Identification of the training director and the training director's contact information.
- d. Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 481—885.3(154B).

885.7(2) Postdoctoral residency. An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

- a. Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.16(147,154B).
- b. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in rule 481—885.3(154B) are met.
- c. A completed supervision plan on the prescribed board form, signed by the applicant's supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

885.7(3) Duration. The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee's supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

- a. A provisional license renewal application;
- b. A provisional license renewal fee; and
- c. A current supervision plan as required in these rules.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.8(147) Licensure by endorsement. An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

885.8(1) Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.16(147,154B).

885.8(2) Provides verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least three years of an independent license as described in subrule 885.8(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

885.8(3) Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least three years with no disciplinary history. Except as stated in subrule 885.3(2), applicants providing certification or verification are deemed to have met the requirements stated in paragraphs 885.8(4) "a" and "b." The board may license by endorsement any other applicant who:

a. Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

b. Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

(1) Provides:

1. Official copies of academic transcripts that have been sent directly from the school; and

2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Psychologists.

2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

885.8(4) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.9(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure and the nonrefundable licensure fee specified in rule 481—507.16(147,154B).

885.9(1) The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant's jurisdiction of residence, sent directly from the jurisdiction 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.

885.9(2) The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.10(147) License renewal.

885.10(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years 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.

885.10(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 date two years later.

885.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—886.2(272C) and the mandatory reporting requirements of subrule 885.10(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.

885.10(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 as required by Iowa Code section 232.69(3)"b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 885.10(4)"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 training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)"b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 885.13(4)"e."

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 885.13(4)"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 rule 481—500.14(272C).

f. The board may select licensees for audit of compliance with the requirements in paragraphs 885.10(4) “*a*” to “*e*.”

885.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

885.10(6) A person licensed to practice as a psychologist shall keep the person’s license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

885.10(7) Late renewal.

a. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.16(3).

b. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

885.10(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 psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology 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 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.11(147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

885.11(1) Submit a reactivation application.

885.11(2) Pay the reactivation fee that is due as specified in 481—Chapter 507.

885.11(3) Provide verification of the license from the jurisdiction in which the applicant has most recently been licensed sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

885.11(4) Provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.12(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—885.14(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.13(154B,147) Title designations.

885.13(1) Students who are enrolled in an education program that satisfies the requirements of subrule 885.3(1) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

885.13(2) Applicants for licensure who have met educational requirements and who are completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident” shall not be used except during a postdoctoral residency that meets the requirements of rule 481—885.6(154B).

885.13(3) Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident,” “intern,” or “fellow” designation.

[ARC 7821C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—885.14(154B) Psychologists’ supervision of persons other than postdoctoral residents in a practice setting.

885.14(1) This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 481—885.6(154B), regardless of whether the individual is provisionally licensed or not.

885.14(2) The supervising psychologist will:

a. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

b. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work will be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors will also be available for emergency consultation and intervention.

c. Provide work assignments that are commensurate with the skills of the supervisee. All procedures will be planned in consultation with the supervisor.

d. Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider on site whenever the supervisee is working for purposes of providing emergency consultation.

e. Make public announcement of services and fees; contact with laypersons or the professional community will be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

f. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person’s status and information regarding the person’s qualifications and functions.

g. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client’s, the supervisee’s or the supervisor’s request.

h. Provide for setting and receipt of payment that will remain the sole domain of the employing agency or supervising psychologist.

i. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

j. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description will be made available to representatives of the board and service recipients upon request.

k. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

l. Countersign all written reports, clinical records and clinical communications as “Reviewed and Approved” by the supervising psychologist.

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◇ Two or more ARCs

CHAPTER 886
CONTINUING EDUCATION FOR PSYCHOLOGISTS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 241]

481—886.1(272C) 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 psychology.

“*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.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice independently as a psychologist in the state of Iowa and does not include persons with provisional licenses.

“*Practice of psychology*” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

[ARC 7822C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—886.2(272C) Continuing education requirements.

886.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

886.2(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 any time from the initial licensing until the second license renewal may be used. The new licensee will need to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

886.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours will be in accordance with these rules.

886.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the 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.

886.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

886.2(6) No hours of continuing education are required to renew a provisional license.

[ARC 7822C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—886.3(154B,272C) Standards.

886.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

886.3(2) *Specific criteria.*

a. For the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members, a maximum of two of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 481—subrule 885.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 886.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 886.3(1). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

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◇ Two or more ARCs

CHAPTER 887
DISCIPLINE FOR PSYCHOLOGISTS

[Prior to 7/11/01, see 645—Chapter 240]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 242]

481—887.1(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist and including amendments effective January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's website at www.apa.org.

This rule is intended to implement Iowa Code chapters 147, 154B and 272C.

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CHAPTER 888
PRACTICE OF PSYCHOLOGY

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 243]

481—888.1(154B) Definitions.

“*APA*” means the American Psychological Association.

“*Clinical records*” means records created by a licensee regarding the observation and treatment of patients, such as progress notes, but does not include psychotherapy notes.

“*Examinee*” means a person who is the subject of a forensic examination for the purpose of informing a decision maker or attorney about the psychological functioning of that examinee.

“*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996 and related regulations promulgated thereunder.

“*Licensee*” or “*licensed*” means an individual with an active license to practice psychology, including a provisional license, or a certificate of exemption issued by the board.

“*Patient*” means an individual under the care of a licensee in a clinical role and is synonymous with the term client.

“*Personal representative*” means a person authorized to act on behalf of the patient in making health care-related decisions such as a parent or legal guardian, an individual with a health care power of attorney, an individual with a general power of attorney or durable power of attorney that includes the power to make health care decisions, or a court-appointed legal guardian.

“*Psychotherapy notes*” means notes recorded by a licensee documenting or analyzing the contents of a conversation during a private therapy session with a patient, or a group, joint, or family therapy session, that are maintained separately from the patient’s clinical records. “Psychotherapy notes” excludes medication prescription monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of any clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

“*Telepsychology*” means the provision of psychological services using telecommunication technologies.

“*Test data*” means raw and scaled scores, patient responses to test questions or stimuli, and notes and recordings concerning patient statements and behavior during an examination.

“*Test materials*” means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—888.2(147,154B,272C) Purpose and scope. The purpose of this chapter is to set the minimum standards of practice for licensees practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Licensees will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in rule 481—885.9(154B). The APA Code of Ethics, published January 1, 2017, is applicable and enforceable to the extent it does not conflict with any standards of practice set forth in this chapter. A licensee may be disciplined for any violation of this chapter or the APA Code of Ethics.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—888.3(154B) Access to records.

888.3(1) *Clinical records generally.* When records are requested along with a signed release from the patient or the patient’s personal representative, a licensee will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, August 21, 1996, 110 Stat. 1936).

888.3(2) *Psychotherapy notes.* A licensee is not required to release psychotherapy notes in response to a signed release; if a licensee chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

888.3(3) *Substance use disorder treatment programs.* Licensees who practice in a federally assisted substance use disorder treatment program, also known as a part 2 program, are prohibited from disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with part 2 requirements.

888.3(4) *Clinical records of minor patients.* A minor patient is a patient who is under the age of 18 and is not emancipated. A licensee is not required to release the clinical records of a minor patient to the minor’s personal

representative if releasing such records is not in the minor's best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

888.3(5) *Clinical records of deceased patients.* A licensee will provide the clinical records of a deceased patient to the deceased patient's executor upon a written request accompanied by a copy of the patient's death certificate and a copy of the legal document identifying the requestor as the patient's executor.

888.3(6) *Forensic records.* A licensee will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

888.3(7) *Board.* A licensee shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A licensee is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

888.3(8) *Exceptions.* These rules do not apply when there is a legal basis for not disclosing requested information.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—888.4(154B) Psychological testing. A licensee may administer psychological tests and assessments to a patient or examinee if the licensee has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

888.4(1) *Use of proctors.* A licensee may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The licensee is responsible for supervising any proctors.

888.4(2) *Release of test data.* A licensee will not provide test data to any person, with the exception that the test data with proper written release, may be disclosed to a licensed psychologist designated by the patient or examinee. A psychologist who receives test data in this manner may not further disseminate the test data.

888.4(3) *Release of test materials.* A licensee shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological test to receive the records associated with the psychological testing of the subject. A licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—888.5(154B) Judicial proceedings. Prior to participating in a judicial proceeding, a licensee will become familiar with the rules governing the proceeding. A licensee will understand and clearly identify the licensee's role in the proceeding.

888.5(1) *Licensure.* A license to practice psychology in Iowa or an exemption from licensure is not required solely to testify as an expert witness in court, if the psychologist did not personally examine the examinee. A psychologist who personally examines an examinee located in Iowa for the purpose of providing an expert opinion is required to be licensed or exempt from licensure at the time of the evaluation.

888.5(2) *Custody evaluations.* A licensee who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings published December 2010.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—888.6(154B) Telepsychology. A psychologist may practice telepsychology provided the following are met:

888.6(1) The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

888.6(2) Prior to initiating telepsychology with a new patient or examinee, a licensee will take reasonable steps to verify the identity and location of the patient or examinee.

888.6(3) A licensee will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

888.6(4) A licensee will gain competency in the use of a particular technology prior to utilizing it in practice. A licensee shall only use technologies that are secure and functioning properly.

888.6(5) A licensee will apply the same ethical and professional standards of care and professional practice that are required when providing in-person psychological services. If the same standard of care cannot be met with telepsychology, a licensee will not utilize telepsychology.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—888.7(154B) Records. A licensee will complete clinical records as soon as practicable to ensure continuity of services. All clinical records shall be completed within 30 days after the service or evaluation is complete unless there are significant extenuating circumstances. Clinical records and psychotherapy notes will be retained for at least seven

years after the last date of service, or until at least three years after a minor reaches the age of 18, whichever is later. Forensic records will be completed and retained consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

[ARC 7824C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 154B, and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 889 PRESCRIBING PSYCHOLOGISTS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 244]

481—889.1(148,154B) Definitions—joint rule.

“*APA*” means the American Psychological Association.

“*Applicant*” means a psychologist applying for a conditional prescription certificate.

“*Board*” means the Iowa board of psychology.

“*Board of medicine*” means the Iowa board of medicine.

“*Collaborating physician*” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who serves as a resource for a prescribing psychologist pursuant to a collaborative practice agreement. A collaborating physician shall engage in the practice of family medicine, internal medicine, neurology, pediatrics, or psychiatry.

“*Conditional prescribing psychologist*” means a person licensed to practice psychology in Iowa who holds an active conditional prescription certificate. This term does not include prescribing psychologists.

“*Conditional prescription certificate*” means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication under the supervision of a supervising physician.

“*CSA registration*” means a Controlled Substance Act registration issued by the Iowa board of pharmacy authorizing a psychologist to possess and prescribe controlled substances.

“*DEA registration*” means a mid-level practitioner registration with the Drug Enforcement Administration authorizing a psychologist to possess and prescribe controlled substances.

“*Joint rule*” means a rule adopted by agreement of the board of psychology and the board of medicine through the joint rulemaking process.

“*Mental disorder*” means a disorder that is defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published by the American Psychiatric Association March 2022, or contained within the mental and behavioral disorders chapter of the most recent version of the International Classification of Diseases, 11th revision, effective January 1, 2022.

“*Prescribing psychologist*” means a person licensed to practice psychology in Iowa who holds an active prescription certificate. This term does not include conditional prescribing psychologists.

“*Prescription certificate*” means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication.

“*Primary care provider*” means a person who engages in the practice of family medicine, internal medicine, neurology, pediatrics, obstetrics and gynecology, or psychiatry and oversees a patient’s general medical care, consistent with Iowa Code section 280A.1.

“*Psychologist*” means a person licensed to practice psychology in Iowa.

“*Psychotropic medication*” means a medication that shall not be dispensed or administered without a prescription and that has been explicitly approved by the federal Food and Drug Administration for the treatment of a mental disorder, as defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published by the American Psychiatric Association March 2022, or the most recent version of the International Classification of Diseases, 11th revision, effective January 1, 2022. “Psychotropic medication” does not include narcotics.

“*Supervising physician*” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who supervises a conditional prescribing psychologist. A supervising physician shall specialize in family medicine, internal medicine, neurology, pediatrics, or psychiatry.

“*Training director*” means an employee of the psychopharmacology training program who is primarily responsible for directing the training program.

“*Training physician*” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who provides training to a psychologist as part of the clinical experience and practicum described in rule 645—244.3(148,154B). A training physician shall engage in the practice of family medicine, internal medicine, neurology, pediatrics, or psychiatry. A training physician shall be approved by the psychopharmacology training program.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.2(154B) Conditional prescription certificate. A conditional prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders under supervision in accordance with the requirements of this chapter.

889.2(1) Application. Unless a basis for denial exists in accordance with rule 481—889.9(154B), the board shall issue a conditional prescription certificate to an applicant who satisfies the following requirements:

- a. Holds an active license to practice psychology in Iowa and an active health service provider certification issued by the board. Both the license and the health service provider certification must be in good standing.
- b. Meets the educational requirements set forth in rule 481—889.3(148,154B). Official academic transcripts shall be sent directly from the school to the board.
- c. Submits a supervision plan in accordance with subrule 889.4(1).
- d. Possesses malpractice insurance that covers the prescribing of psychotropic medications.
- e. Submits a completed application and a nonrefundable application fee of \$270.

889.2(2) Term. A conditional prescription certificate shall be valid for a period of four years from the date of issuance. The board shall not renew a conditional prescription certificate unless a conditional prescribing psychologist cannot complete the requirements of supervised practice within four years due to extenuating circumstances. A conditional prescribing psychologist may request an extension of a conditional prescription certificate when extenuating circumstances exist to provide additional time for the requirements of supervised practice to be met.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.3(148,154B) Educational requirements for conditional prescription certificate—joint rule. An applicant for a conditional prescription certificate shall have completed a program of study designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The program must have included didactic instruction, a clinical experience, and a practicum satisfying the requirements of this rule. A minimum of 40 hours of basic training on clinical assessment skills shall be included as part of the program's didactic instruction.

889.3(1) Degree. An applicant shall possess a postdoctoral master of science degree in clinical psychopharmacology from a program designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The degree program must be a minimum of 30 credit hours, not including the practicum, and shall include coursework in basic science; neuroscience; clinical medicine; pathological basis of disease; clinical pharmacology; psychopharmacology; and professional, ethical and legal issues. A minimum of one-third of the coursework must be completed in a live interactive format. A program must be designated by the APA at the time the degree is conferred.

889.3(2) Clinical experience. An applicant shall have completed a clinical experience in accordance with the requirements of this subrule. During the clinical experience, a psychologist shall learn clinical assessment techniques and pathophysiology through direct observation and hands-on training with a training physician. During the clinical experience, a psychologist shall become competent in health history interviews, physical examinations, and neurological examinations with a medically diverse patient population. The clinical experience must be associated with the psychopharmacology training program from which the psychologist obtained the postdoctoral master of science degree in clinical psychopharmacology.

a. *Scope.* At the beginning of the clinical experience, the psychologist shall directly observe the training physician performing clinical assessments of patients. After the training physician determines the psychologist has gained sufficient knowledge, the clinical experience shall transition to the psychologist's performance of clinical assessments of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may perform clinical assessments of patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients and is reviewing all medical records. A psychologist and a training physician shall have ongoing discussions regarding the psychologist's clinical assessment skills and progress in the clinical experience.

b. *Minimum experience.* The clinical experience shall consist of a minimum of 600 patient encounters that shall be completed by the end of the practicum.

c. *Conflict of interest.* A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

d. *Milestones.* To satisfactorily complete the clinical experience, a psychologist shall demonstrate competency in each of the following:

(1) Perform a health history interview to obtain pertinent information regarding a patient's chief complaint, history of the present illness, past medical and surgical history, family history, allergies, medications, and psychosocial

history. The psychologist shall perform a review of systems to elicit a health history and shall appropriately document the health history.

(2) Perform a physical examination in a logical sequence, ensuring appropriate positioning of the patient, proper patient draping, and proper application of the principles of asepsis throughout the examination. The psychologist shall verbalize and assess the components of a general survey and be able to accurately assess all of the following: vital signs, including pulse, respiration, and blood pressure; skin, hair and nails; head, face and neck; eyes; ears, nose, mouth and throat; thorax, lungs and axillae; heart; peripheral vascular system; abdomen; and musculoskeletal system. The psychologist shall be proficient in utilizing any equipment needed to conduct a physical examination.

(3) Complete a neurological examination demonstrating knowledge of the history related to the neurological system and the ability to assess the following: mental status, cranial nerves, motor system, sensory system, and reflexes. The psychologist shall differentiate normal laboratory values from abnormal laboratory values and correlate abnormal laboratory values with impaired physiological systems. The psychologist shall identify adverse drug reactions and identify laboratory data and physical signs indicating an adverse drug reaction.

e. Informed consent. At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the clinical experience. The psychologist shall provide sufficient information regarding the expectations and requirements of the clinical experience to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

f. Training documentation. The psychologist and the training director shall maintain documentation accounting for all clinical experience patient encounters, including the dates, times, and locations of all clinical experience patient encounters, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

g. Certification. The training physician(s) and the training director shall certify on forms provided by the board that the applicant has successfully completed the minimum number of clinical experience patient encounters required and demonstrated competence in clinical assessment techniques and pathophysiology through completion of the milestones defined in these rules.

889.3(3) Practicum. An applicant shall have completed a practicum in accordance with the requirements of this subrule. During the practicum, a psychologist shall develop competencies in evaluating and treating patients with mental disorders through pharmacological intervention via observation and active participation. The practicum must be associated with the psychopharmacology training program from which the applicant obtained the postdoctoral master of science degree in clinical psychopharmacology and must be completed in a period of time not less than six months and not more than three years.

a. Scope. At the beginning of the practicum, the psychologist shall directly observe the training physician evaluating and treating patients with mental disorders. After the training physician determines the psychologist has gained sufficient knowledge, the practicum shall transition to the psychologist's evaluation and treatment of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may evaluate and treat patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients, has personal contact with the patient at each visit, and is reviewing all pertinent medical records. During the practicum, the training physician shall make all final treatment decisions, with consultation from the psychologist prior to making a final determination regarding the psychopharmacological treatment of a patient.

b. Minimum number of hours. A practicum shall consist of a minimum of 400 hours. Only hours spent face to face evaluating and treating patients with mental disorders and hours spent discussing treatment plans with a training physician may count as practicum hours. Time spent by the psychologist providing services that are within the scope of practice of a licensed psychologist, such as psychological examinations and psychotherapy, shall not be counted as practicum hours.

c. Minimum number of patients. A psychologist shall see a minimum of 100 individual patients throughout the practicum. A patient can be counted toward this requirement if the patient has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. Over the course of the practicum, the psychologist shall observe, evaluate, and treat patients encompassing a range of ages and a variety of psychiatric diagnoses.

d. Settings. At least 100 hours of the 400 hours must be completed in a psychiatric setting. At least 100 hours of the 400 hours must be completed in a primary care or community mental health setting.

e. Conflict of interest. A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

f. Milestones. To successfully complete the practicum, a psychologist shall demonstrate competency in each of the following:

(1) Physical examination and mental status examination. The psychologist shall perform comprehensive and focused physical examinations and mental status evaluations, demonstrate proper use of instruments, and recognize variation associated with developmental stages and diversity.

(2) Review of systems. The psychologist shall integrate information learned from patient reports, signs, symptoms, and a review of each major body system, recognizing normal developmental variations.

(3) Medical history interview. The psychologist shall systematically conduct a patient clinical interview, producing a patient's medical, surgical, psychiatric, and medication history, as well as a family medical and psychiatric history, and be able to communicate the findings in written and verbal form.

(4) Assessment indications and interpretation. The psychologist shall order and interpret appropriate tests (e.g., psychometric, laboratory, and radiological) for the purpose of making a differential diagnosis and monitoring therapeutic and adverse effects of treatment.

(5) Differential diagnosis. The psychologist shall determine primary and alternate diagnoses using established diagnostic criteria.

(6) Integrated treatment planning. The psychologist shall identify and select, using all available data, the most appropriate treatment alternatives, including medication, psychosocial, and combined treatments, and sequence treatment within the larger biopsychosocial context.

(7) Consultation and collaboration. The psychologist shall understand the parameters of the role of a prescribing psychologist and work with other professionals, including a patient's primary care physician, in an advisory or collaborative manner to effectively treat a patient.

(8) Treatment management. The psychologist shall apply, monitor, and modify as needed the treatment of a patient and learn to write valid and complete prescriptions.

(9) Medical documentation. The psychologist shall demonstrate appropriate medical documentation for the patient-psychologist interaction to include subjective and objective assessment; mental status, physical examination findings, or both; formulation; diagnostic impression; and comprehensive treatment plan.

g. Informed consent. At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the practicum. The psychologist shall provide sufficient information regarding the expectations and requirements of the practicum to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

h. Training documentation. The psychologist and the training director shall maintain documentation regarding all patients observed, evaluated, and treated by the psychologist as part of the practicum. The documentation shall clearly identify the training physician for each patient. The psychologist and the training director shall maintain documentation of all practicum hours, including the dates, times, and locations of all practicum hours, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

i. Certification. The training physician(s) and the training director shall certify on forms provided by the board that the psychologist has successfully completed the minimum number of practicum hours, treated the minimum number of patients, and demonstrated competence in the evaluation and treatment of patients with mental disorders through pharmacological intervention through completion of the milestones defined in these rules.

889.3(4) Examination. A psychologist shall pass the Psychopharmacology Examination for Psychologists (PEP) administered by the APA Practice Organization's College of Professional Psychology or by the Association of State and Provincial Psychology Boards. The passing score utilized by the board shall be the passing score recommended by the test administrator. The examination score shall be sent directly from the testing service to the board.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.4(148,154B) Supervised practice as a conditional prescribing psychologist—joint rule. A conditional prescribing psychologist shall complete a minimum of two years of supervised practice in prescribing psychotropic medications to patients with mental disorders in accordance with this rule to be eligible to apply for a prescription certificate.

889.4(1) Supervision plan. Prior to issuing a conditional prescription certificate, the board shall review and approve the proposed supervision plan.

a. The proposed supervision plan must include the following:

(1) Conditional prescribing psychologist information. The plan must include the name, license number, address, telephone number, and email address of the supervisee.

(2) Supervising physician information. The plan must include the name, license number, date of licensure, area of specialization, address, telephone number, and email address of each supervising physician.

(3) Primary supervising physician. The plan must include a designation of the primary supervising physician.

(4) Period of supervision. The plan must include the beginning date of the supervision plan and estimated date of completion.

(5) Locations and settings. The plan must include a description of the locations and settings where and with whom supervision will occur.

(6) Scope of practice. The plan must include a description of the scope of practice of the conditional prescribing psychologist, including any limitations on the types of psychotropic medications that may be prescribed and the patient populations to which a prescription may be issued and including the expectations and responsibilities of the supervising physician.

(7) Release of information. The plan must include a provision requiring the conditional prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the conditional prescribing psychologist to share the patient's health information with the supervising physician.

(8) Consultation between the conditional prescribing psychologist and the supervising physician. The plan must include a provision requiring that the conditional prescribing psychologist consult with the supervising physician on a regular basis regarding a patient's psychotropic treatment plan and any potential complications. A conditional prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician objects on the basis of a contraindication.

(9) Consultation between the supervising physician and the primary care physician. The plan must include a provision requiring that the supervising physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

(10) Termination of the supervision plan. The plan must include a description of how the supervision plan may be terminated and the process for notifying affected patients.

(11) Signatures. The plan must include signatures of the psychologist and all supervising physicians.

b. A conditional prescribing psychologist shall inform the board of any amendments to the conditional prescribing psychologist's supervision plan, including the addition of any supervising physicians, within 30 days of the change. Amendments to a supervision plan are subject to board approval.

c. The board shall transmit all approved supervision plans and approved amendments to the board of medicine.

889.4(2) Responsibilities of a supervising physician. A supervising physician shall provide supervision in accordance with rules established by the board of medicine.

889.4(3) Responsibilities of a conditional prescribing psychologist. At the initial contact, a conditional prescribing psychologist shall inform a patient, or a patient's legal guardian when appropriate, that the conditional prescribing psychologist is practicing under the supervision of a physician for purposes of prescribing psychotropic medication and shall provide the name of the supervising physician. A conditional prescribing psychologist shall provide sufficient information regarding the supervision requirements to obtain informed consent and appropriate releases. Upon request, a conditional prescribing psychologist shall provide additional information regarding the conditional prescribing psychologist's education, training, or experience with respect to prescribing psychotropic medications.

889.4(4) Specialization. A conditional prescribing psychologist shall complete the following training during the supervised practice period to be eligible to prescribe psychotropic medications to the respective population as a prescribing psychologist:

a. *Children.* To prescribe to patients who are less than 17 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

(1) A pediatric practice,

(2) A child and adolescent practice, or

(3) A general practice provided the conditional prescribing psychologist treats a minimum of 50 patients who are less than 17 years of age.

b. *Elderly patients.* To prescribe to patients who are over 65 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

(1) A geriatric practice, or

(2) A general practice with patients across the lifespan including patients who are over 65 years of age.

c. *Serious medical conditions.* To prescribe to patients with serious medical conditions including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental

disabilities and intellectual disabilities, a conditional prescribing psychologist shall complete at least one year prescribing psychotropic medications to patients with serious medical conditions.

889.4(5) *Completion of supervised practice.* A conditional prescribing psychologist shall see a minimum of 300 patients over a minimum of two years to complete the supervised practice period, provided each of the 300 patients has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. A conditional prescribing psychologist shall treat a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

a. At the conclusion of the supervised practice period, a primary supervising physician shall certify the following:

(1) Supervision was provided in accordance with rules established by the board of medicine.

(2) A conditional prescribing psychologist has successfully completed two years of supervised practice, considered at least 300 patients for psychopharmacological intervention, and treated at least 100 patients with psychotropic medications.

(3) A conditional prescribing psychologist intending to specialize in the psychological care of children or elderly persons, or persons with serious medical conditions, has completed the requirements of subrule 889.4(4).

(4) A conditional prescribing psychologist has successfully completed the supervised practice period and demonstrated competence in psychopharmacology by demonstrating competency in the milestones listed in paragraph 889.3(3) "f" sufficient to obtain a prescription certificate.

b. If a conditional prescribing psychologist is unable to successfully complete the supervised practice period prior to the expiration of the conditional prescription certificate, the conditional prescribing psychologist may request an extension of the conditional prescription certificate provided that the conditional prescribing psychologist can demonstrate that the conditional prescribing psychologist is likely to successfully complete the supervised practice within the extended time requested. Any requests for extension must be submitted to and approved by both the board and the board of medicine.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.5(154B) Prescription certificate. A prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders in accordance with the requirements of this chapter.

889.5(1) *Application.* Unless a basis for denial exists in accordance with rule 481—889.9(154B), the board shall issue a prescription certificate to a conditional prescribing psychologist who satisfies the following requirements:

a. Holds an active license to practice psychology in Iowa, an active health service provider certification issued by the board, and an active conditional prescription certificate. The license, certification, and certificate must all be in good standing.

b. Submits documentation regarding successful completion of the supervised practice period.

c. Submits a collaborative practice agreement in accordance with rule 481—889.8(148,154B).

d. Possesses malpractice insurance that covers the prescribing of psychotropic medications.

e. Submits a completed application and a nonrefundable application fee of \$60.

889.5(2) *Initial term and renewal.* An initial prescription certificate shall be valid through the current expiration date of the applicant's psychologist license. Thereafter, a prescription certificate shall be renewed biennially concurrent with the renewal of the psychologist license. A prescribing psychologist may renew a prescription certificate by submitting a completed renewal application and a nonrefundable application fee of \$60. A prescribing psychologist is responsible for renewing the prescription certificate prior to its expiration.

889.5(3) *Continuing education required.* A prescribing psychologist shall complete a minimum of 20 hours of continuing education in psychopharmacology each year. A total of 40 hours of continuing education in psychopharmacology is required to renew a prescription certificate. These hours are separate from, and in addition to, the continuing education hours needed to renew a psychologist license pursuant to 481—Chapter 886. If a psychologist specializes in treating children, a minimum of 10 hours of continuing education in psychopharmacology each year, for a total of 20 hours of continuing education per renewal period, must be directly related to prescribing psychotropic medication to children.

889.5(4) *Late renewal.* A prescription certificate shall become late when it has not been renewed prior to the expiration date. To renew a late prescription certificate, a prescribing psychologist shall complete the renewal requirements and submit a late fee of \$60 within 30 days following the prescription certificate expiration date. A prescribing psychologist who fails to renew a prescription certificate within 30 days following the prescription certificate expiration date shall have an inactive prescription certificate. A psychologist whose prescription certificate is inactive continues to hold the privilege of certification in Iowa but may not prescribe psychotropic medications until the prescription certificate is reactivated.

889.5(5) *Reactivation.* To apply for reactivation of an inactive prescription certificate, a psychologist shall submit a completed reactivation application, a nonrefundable fee of \$60, and documentation of a minimum of 40 hours of continuing education in psychopharmacology taken within the preceding two years. If a prescription certificate has been inactive for more than five years, a psychologist shall demonstrate competence in psychopharmacology through one of the following means:

- a. Practiced as a prescribing psychologist in another jurisdiction in the preceding two years.
- b. Completed a period of supervised practice for a minimum of 12 months. The board may issue a conditional prescription certificate to complete a supervised practice period for purposes of prescription certificate reactivation.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.6(148,154B) Prescribing—joint rule. This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall comply with all prescription requirements described in 657—subrule 8.19(1). The following limits apply to a psychologist's prescriptive authority:

1. A psychologist shall only prescribe psychotropic medications for the treatment of mental disorders.
2. A psychologist shall only prescribe psychotropic medications in situations where the psychologist has adequate education and training to safely prescribe.
3. A prescription shall identify the prescriber as a "psychologist certified to prescribe" and shall include the Iowa license number of the psychologist.
4. A prescription issued by a conditional prescribing psychologist shall contain the name of the supervising physician overseeing the care of the patient.
5. A psychologist shall not delegate prescriptive authority to any other person.
6. A psychologist is prohibited from prescribing narcotics as defined in Iowa Code section 124.101.
7. A psychologist shall maintain an active DEA registration and an active CSA registration in order to dispense, prescribe, or administer controlled substances.
8. A psychologist shall not self-prescribe nor prescribe to any person who is a member of the psychologist's immediate family or household.
9. Before prescribing a psychotropic medication that is classified as a controlled substance, a psychologist shall check the patient's prescriptive profile using the Iowa prescription monitoring program.
10. To prescribe to a patient who is pregnant or lactating, a psychologist shall consult with the patient's obstetrician-gynecologist or the physician managing the patient's pregnancy or postpartum care regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication to a patient if the patient's obstetrician-gynecologist or the physician managing care objects on the basis of a contraindication.
11. To prescribe to a patient who has a serious medical condition, including but not limited to heart disease, kidney disease, liver disease, cancer, stroke, seizures, or comorbid psychological conditions, or to a patient who has a developmental or intellectual disability, a psychologist shall consult with the physician who is managing the comorbid condition for that patient regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication if the patient's physician objects on the basis of a contraindication.
12. A psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician or collaborating primary care provider objects on the basis of a contraindication.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.7(148,154B) Consultation with primary care providers—joint rule. This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall maintain a cooperative relationship with the primary care provider who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical conditions, and significant changes in the patient's medical or psychological condition are discussed.

889.7(1) *Requirement for a primary care provider.* A patient must have a designated primary care provider who engages in the practice of family medicine, internal medicine, neurology, pediatrics, obstetrics and gynecology, or psychiatry in order for a psychologist to have the ability to prescribe psychotropic medications to the patient. If a patient does not have a designated primary care provider, a psychologist shall refer the patient to a primary care provider prior to prescribing psychotropic medications to the patient. A psychologist shall not prescribe psychotropic medications to a patient until the patient has established care with a primary care provider.

889.7(2) *Requirement for a release.* A psychologist shall obtain a release of information from the patient, or the patient's legal guardian when appropriate, authorizing the sharing of the patient's health information between the

psychologist and the patient's primary care provider. A psychologist shall not prescribe psychotropic medications to a patient who refuses to sign a release.

889.7(3) *Cooperation and consultation with primary care provider.* A psychologist shall contact each patient's primary care provider on at least a quarterly basis and shall contact the primary care provider to relay information regarding the care of a patient whenever the following occur:

a. A psychologist is considering adding a new psychotropic medication to a patient's medication regimen. A psychologist shall not prescribe a new psychotropic medication if the patient's primary care provider objects on the basis of a contraindication.

b. A psychologist is discontinuing or changing the dosage of a psychotropic medication.

c. A patient experiences adverse effects from any medication prescribed by the psychologist that may be related to the patient's medical condition.

d. A psychologist receives the results of laboratory tests related to the medical care of a patient.

e. A psychologist notes a change in a patient's mental condition that may affect the patient's medical treatment.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.8(148,154B) Collaborative practice—joint rule.

889.8(1) A prescribing psychologist shall have one or more collaborating physicians at all times, as evidenced by a current collaborative practice agreement. Prior to executing a collaborative practice agreement, a prescribing psychologist and a collaborating physician shall review and discuss each other's relevant education, training, experience, and competencies to determine whether a collaborative practice is appropriate and to facilitate drafting a suitable collaborative practice agreement. A collaborative relationship between a prescribing psychologist and a collaborating physician shall ensure patient safety and optimal clinical outcomes. Collaboration may be done in person or via electronic communication in accordance with these rules. A physician shall not serve as a collaborating physician for more than two prescribing psychologists at one time. A prescribing psychologist shall not prescribe without a current written collaborative practice agreement with a collaborating physician in place. All collaborative relationships shall be reviewed and evaluated on an annual basis to ensure that the prescribing psychologist is competent to safely prescribe psychotropic medications to patients and that the collaborating physician is providing appropriate feedback to the prescribing psychologist. A collaborative practice agreement shall establish the parameters of the collaborative practice that are mutually agreed upon by the prescribing psychologist and the collaborating physician and shall be reviewed on an annual basis.

889.8(2) A collaborative practice agreement shall include the following:

a. *Prescribing psychologist information.* The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the prescribing psychologist.

b. *Collaborating physician information.* The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the collaborating physician.

c. *Time period.* The time period covered by the agreement.

d. *Locations and settings.* The locations and settings where collaborative practice will occur.

e. *Collaboration.* A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborating physician is available for timely collaboration with a prescribing psychologist, either in person or via electronic communication, in accordance with these rules.

f. *Scope of practice.* The scope of practice agreed upon by the collaborating physician and the prescribing psychologist, as it relates to the prescribing psychologist's prescribing of psychotropic medications, including provisions to ensure that the prescribing psychologist's practice complies with all provisions of these rules.

g. *Clinical protocols, practice guidelines, and care plans.* Clinical protocols, practice guidelines, and care plans relevant to the scope of practice authorized.

h. *Methods of communication.* A description of how a prescribing psychologist and a collaborating physician may contact each other for consultation.

i. *Limitations on psychotropic medications.* A description of any limitations on the range of psychotropic medications the prescribing psychologist may prescribe. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only prescribes psychotropic medications that are consistent with the prescribing psychologist's education, training, experience, and competence.

j. *Limitations on patient populations.* A description of any limitations on the types of populations that the prescribing psychologist may treat with psychotropic medications. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the

prescribing psychologist only provides psychopharmacology services to patient populations that are within the prescribing psychologist's education, training, experience, and competence.

k. Release of information. A provision requiring the prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the prescribing psychologist to share the patient's health information with the collaborating physician.

l. Chart review. A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborative physician personally reviews and documents review of at least 10 percent of the prescribing psychologist's patient charts on a quarterly basis in each of the following categories:

- (1) Juvenile patients,
- (2) Pregnant or lactating patients,
- (3) Elderly patients,
- (4) Patients with serious medical conditions, and
- (5) All other patients.

m. Annual review. A provision requiring an annual review and evaluation of the collaborative relationship and the collaborative practice agreement.

n. Consultation between the prescribing psychologist and the collaborating physician. A provision requiring that the prescribing psychologist consult with the collaborating physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications. A prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the collaborating physician objects on the basis of a contraindication.

o. Consultation between the collaborating physician and the primary care provider. A provision requiring that the collaborating physician consult with the patient's primary care provider on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

p. Termination. A provision describing how the agreement can be terminated and the process for notifying affected patients if there will be an interruption in services.

q. Signatures. Signatures of the prescribing psychologist and all collaborating physicians.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.9(154B) Grounds for discipline. The board may deny, suspend, revoke, or impose other discipline as outlined in 481—Chapter 504 against a psychologist who holds a conditional prescription certificate or prescription certificate for any of the following:

889.9(1) Violating any of the grounds for discipline set forth in rule 481—887.2(147,272C).

889.9(2) The inability to safely prescribe psychotropic medications.

889.9(3) Prescribing medications in violation of rule 481—889.6(148,154B).

889.9(4) Repeatedly failing to cooperate and collaborate with primary care physicians.

889.9(5) Prescribing psychotropic medications without a current written collaborative practice agreement.

889.9(6) Failing to maintain malpractice insurance that covers the prescribing of psychotropic medications.

889.9(7) Practicing outside the scope of a collaborative practice agreement.

889.9(8) Prescribing medications while the conditional prescription certificate or prescription certificate is inactive, or prescribing controlled substances while the DEA registration or CSA registration is not current.

889.9(9) Having a conditional prescription certificate or prescription certificate disciplined by the licensing authority of another state.

889.9(10) Having a license or health service provider certification disciplined by the board or the licensing authority of another state.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.10(154B) List of psychologists. The board shall maintain a list of all current conditional prescribing psychologists and prescribing psychologists. The list shall be transmitted annually to the board of medicine.

889.10(1) Information. The list shall include the name of the psychologist, license number, license expiration date, expiration date of the conditional prescription certificate or prescription certificate, and practice locations.

889.10(2) Additions and deletions. When a psychologist is added or removed from the list, the board shall notify the board of medicine of the addition or deletion.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.11(148,154B) Complaints—joint rule. Any complaint received by the board alleging a violation of this chapter shall be forwarded to the board of medicine. Any complaint received by the board of medicine alleging a violation of this chapter shall be forwarded to the board.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.12(148,154B) Joint waiver—joint rule. Any rule identified as a joint rule may only be waived upon approval by both the board and the board of medicine.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

481—889.13(148,154B) Amendment—joint rule. Any rule identified as a joint rule may only be amended by agreement of the board and board of medicine through a joint rulemaking process.

[ARC 8149C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 148 and 154B.

[Filed ARC 4251C (Notice ARC 3904C, IAB 8/1/18), IAB 1/16/19, effective 2/20/19]

[Filed ARC 5905C (Notice ARC 5617C, IAB 5/5/21), IAB 9/8/21, effective 10/13/21]

[Filed ARC 8149C (Notice ARC 7292C, IAB 1/24/24), IAB 7/24/24, effective 8/28/24]

[Editorial change: IAC Supplement 9/18/24]

CHAPTER 890
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 245]

481—890.1(17A,272C) Board of psychology adoption of uniform and model rules. The board hereby adopts by reference the following:

890.1(1) to **890.1(9)** Reserved.

890.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

[Filed ARC 8148C (Notice ARC 7296C, IAB 1/24/24), IAB 7/24/24, effective 8/28/24]

[Editorial change: IAC Supplement 9/18/24]

BOARD OF BEHAVIORAL SCIENCES

CHAPTER 891

LICENSURE OF MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS,
BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

[Prior to 1/30/02, see 645—Chapter 30]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 31]

481—891.1(154D) Definitions. For purposes of these rules, the following definitions shall apply:

“*ACA*” means the American Counseling Association.

“*Active license*” means a license that is current and has not expired.

“*AMFTRB*” means the Association of Marital and Family Therapy Regulatory Boards.

“*AMHCA*” means the American Mental Health Counselors Association.

“*BACB*” means the Behavior Analyst Certification Board.

“*Board*” means the board of behavioral science.

“*CCE*” means the Center for Credentialing and Education, Inc.

“*Course*” means three graduate semester credit hours.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a marital and family therapist, mental health counselor, behavior analyst, or assistant behavior analyst in the state of Iowa.

“*License expiration date*” means September 30 of even-numbered years for marital and family therapists and mental health counselors, and means the expiration date of the certification issued by the Behavior Analyst Certification Board for behavior analysts and assistant behavior analysts.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

“*Mental health setting*” means a behavioral health setting where an applicant is providing mental health services including the diagnosis, treatment, and assessment of emotional and mental health disorders and issues.

“*NBCC*” means the National Board for Certified Counselors.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—891.13(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(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.

“*Temporary license*” means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist. The following criteria shall apply to licensure:

891.2(1) The applicant shall submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.3(147,154D).

891.2(2) The applicant for a mental health counseling license shall submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

891.2(3) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science have been received by the board or an equivalency evaluation completed by the CCE has been received by the board. The applicant shall present proof of meeting the educational requirements. Documentation of such proof shall be on file in the board office with the application and include one of the following:

a. For licensure as a marital and family therapist, an official transcript verifying completion of a marital and family therapy program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as defined in subrule 891.5(1) or an equivalency evaluation of the applicant’s educational credentials completed by CCE as defined in subrule 891.5(2).

b. For licensure as a mental health counselor, an official transcript verifying completion of a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as defined in subrule 891.6(1) or an equivalency evaluation of the applicant's educational credentials completed by CCE as defined in subrule 891.6(2).

891.2(4) The applicant is required to take the examination(s) provided in rule 481—891.3(1).

891.2(5) The applicant for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience as required in rule 481—891.7(154D).

891.2(6) The applicant for temporary licensure must submit a supervision plan to the board prior to licensure. Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office. The temporary licensee shall remain under supervision until a permanent license is issued.

891.2(7) A temporary license is only valid for the purpose of fulfilling the postgraduate supervised clinical experience requirement. It is valid for three years and may be renewed at the discretion of the board.

891.2(8) A licensee who was issued an initial permanent license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

891.2(9) An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.3(154D) Examination requirements for mental health counselors and marital and family therapists.

The following criteria shall apply to the written examination(s):

891.3(1) The applicant will take and pass the following examinations in order to qualify for licensing:

a. For a marital and family therapist license, the AMFTRB Examination in Marital and Family Therapy.

b. For a mental health counselor license or a temporary mental health counselor license, the National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC. For a temporary mental health counselor license, the NCE of the NBCC or the NCMHCE of the NBCC.

c. For a mental health counselor license, the NCMHCE of the NBCC.

891.3(2) The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

891.3(3) An applicant who is requesting approval to take the licensure examination prior to graduation shall:

a. Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.3(147,154D).

b. Have a letter on official school letterhead sent directly from the program director to the board indicating that the applicant is in good academic standing; that the applicant will graduate from the program within three months of the date on the letter; and the applicant's anticipated date of graduation.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.4(147) Professional counselor licensing compact. The rules of the Counseling Compact Commission are incorporated by reference.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.5(154D) Educational qualifications for marital and family therapists. The applicant must complete the required semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in subrule 891.5(2); no course may be used more than once. The applicant must present proof of completion of the following educational requirements for licensure as a marital and family therapist:

891.5(1) *Accredited program.* Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the COAMFTE from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

891.5(2) *Content-equivalent program.* Applicants must present an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy, behavioral science, or a counseling-related field from a college or university accredited by an agency

recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. Graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of the graduates' educational credentials by the CCE, website cce-global.org.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.6(154D) Educational qualifications for mental health counselors. The applicant must complete three semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in subrule 891.6(2); no course may be used to fulfill more than one content area. The applicant must present proof of completion of the following educational requirements for licensure as a mental health counselor:

891.6(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the CACREP from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2012, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

891.6(2) Content-equivalent program. Applicants must present an official transcript verifying completion of a master's degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education that is content-equivalent to a master's degree in counseling with emphasis in mental health counseling. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the CCE, website cce-global.org.

891.6(3) Foreign-trained marital and family therapists or mental health counselors. Foreign-trained marital and family therapists or mental health counselors shall:

a. Provide an equivalency evaluation of their educational credentials by the following: International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website www.ierf.org or email at info@ierf.org. A candidate shall bear the expense of the curriculum evaluation.

b. Receive a final determination from the board regarding the application for licensure.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.7(154D) Supervised clinical experience. An applicant for licensure as a mental health counselor or marital and family therapist must complete a supervised clinical experience as set forth in this rule.

891.7(1) Minimum requirements. The supervised clinical experience must satisfy all of the following requirements:

a. *Timing.* The supervised clinical experience cannot begin until after all graduate coursework has been completed with the exception of the thesis.

b. *Duration.* The supervised clinical experience must be for a minimum of two years.

c. *Minimum number of hours.* The supervised clinical experience must consist of at least 3,000 hours of practice.

d. *Minimum number of direct client hours.* The supervised clinical experience will consist of at least 1,500 hours of direct client contact.

e. *Minimum number of direct supervision hours.* The supervised clinical experience will consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision will continue to occur for the remainder of the supervised clinical experience.

f. *Number of supervisors.* A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

g. *Number of supervisees.* A supervisor will determine the number of supervisees who can be supervised safely and competently and will not exceed that number.

h. *Content.* The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published March 2022, and providing treatment, including the establishment of treatment goals, psychosocial therapy using

evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience will prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

891.7(2) *Eligible supervisors.* A supervisor must satisfy all of the following requirements:

- a. Hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.
- b. Have a minimum of three years of independent practice.
- c. Have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.
- d. Be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.

Any request for a supervisor who does not meet these requirements must be approved by the board before supervision begins.

891.7(3) *Supervision plan.* Prior to beginning supervision, the supervisee will submit a written supervision plan to the board using the current form published by the board. The supervisee will also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

891.7(4) *Supervision report.* When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee will ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

891.7(5) *Supervised clinical experience in other states.* An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience that has been completed can be used to qualify for licensure in Iowa.

891.7(6) *Grandfather clause.* Any new or additional requirements imposed by this rule do not apply to supervision that started prior to July 20, 2022.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists.

An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

891.8(1) The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a. Meets the requirements of rule 481—891.2(154D); and
- b. Provides verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

891.8(2) In lieu of meeting the requirements of subrules 891.2(4) and 891.2(5), applicants who meet the qualifications below may instead submit documentation demonstrating how each of the qualifications below is satisfied:

- a. The applicant possesses a master's degree or higher in mental health counseling or marital and family therapy or an equivalent counseling-related field; and
- b. The applicant does not have any past or pending disciplinary action from any state licensing boards related to any mental health counseling or marital and family therapy license currently or previously held by the applicant.

891.8(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.9(147) Licensure of behavior analysts and assistant behavior analysts.

891.9(1) The applicant must submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.3(147,154D).

891.9(2) For licensure as a behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified behavior analyst or board-certified behavior analyst-doctoral. For licensure as an assistant behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified assistant behavior analyst.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.10(147) License renewal for mental health counselors and marriage and family therapists.

891.10(1) The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 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.

891.10(2) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—892.2(272C). 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.

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 next renewal two years later.

891.10(3) 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 as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 31.10(3) "d."

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 as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 31.10(3) "d."

c. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs 31.10(3) "a" and "b," including program date(s), content, duration, and proof of participation.

d. 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 481—Chapter 500.

e. The board may select licensees for audit of compliance with the requirements in paragraphs 31.10(3) "a" to "d."

891.10(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

891.10(5) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

891.10(6) 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 481—subrule 507.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

891.10(7) 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 mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy 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 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts.

891.11(1) An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant's current certification issued by BACB.

891.11(2) The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee's BACB certification. Each license renewed shall be given the expiration date that is on the licensee's current BACB certification. 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.

891.11(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements required by BACB to renew a certification.
- b. Maintain current certification as a board-certified behavior analyst, board-certified behavior analyst-doctoral, or board-certified assistant behavior analyst issued by BACB.
- c. Submit the completed renewal application and renewal fee before the license expiration date.

891.11(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. 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.

891.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

891.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

891.11(7) 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 engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires licensure 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.

891.11(8) Reactivation. To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application and proof of current certification and shall be assessed a reactivation fee as specified in 481—subrule 507.3(6).

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.12(147) Licensee recordkeeping.

891.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

891.12(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a licensee provides direct clinical services.

891.12(3) A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

891.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client's discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

891.12(5) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

891.12(6) Correction of records.

a. Hard-copy records. Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

891.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

891.12(8) Retirement, death or discontinuance of practice.

a. If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a licensee's death:

(1) The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

891.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.13(17A,147,272C) License reactivation for mental health counselors and marital and family therapists. To apply for reactivation of an inactive license, a licensee shall:

891.13(1) Submit a reactivation application.

891.13(2) Pay the reactivation fee that is due as specified in 481—Chapter 507.

891.13(3) Provide:

a. Verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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; and

b. Verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.14(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—891.13(17A,147,272C) or subrule 891.11(8) prior to practicing mental health counseling, marital and family therapy, or applied behavior analysis in this state.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.15(154D) Marital and family therapy and mental health counselor services subject to regulation. Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—891.16(154D) Temporary licensees. A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.

[ARC 7917C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

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[Editorial change: IAC Supplement 9/18/24]

[◇] Two or more ARCs

¹ February 18, 2009, effective date of amendments to 645—31.4(154D) to 645—31.8(154D), **ARC 7476B**, Items 5 to 9, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 6, 2009.

CHAPTER 892
CONTINUING EDUCATION FOR MARITAL AND
FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 32]

481—892.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means the license 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 behavioral science.

“*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 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 continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 892.3(1).

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice marital and family therapy or mental health counseling in the state of Iowa.

[ARC 7918C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—892.2(272C) Continuing education requirements.

892.2(1) The biennial continuing education compliance period shall extend for a 25-month period beginning on September 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state is required to complete a minimum of 40 hours of continuing education that meets the requirements of this chapter.

892.2(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 any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

892.2(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.

892.2(4) No hours of continuing education will be carried over into the next biennium except as stated for the 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.

892.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7918C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—892.3(154D,272C) Standards.

892.3(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 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(s), location, course title, presenter(s);

- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

892.3(2) *Specific criteria.* Continuing education hours of credit may be obtained by completing the following:

- a. Attendance at workshops, conferences, symposiums and webinars.
- b. Academic courses. Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

- c. Completion of independent study courses that meet the general criteria in subrule 892.3(1).
- d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

(1) Presenting professional programs which meet the criteria in rule 481—892.3(272C). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presentation at a professional program does not include teaching a class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

(4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.

(5) Authoring papers, publications, and books. The licensee will receive 5 hours of credit per page with a maximum of 20 hours of credit.

(6) Serving on a state or national professional board. The licensee will receive a maximum of three hours of credit.

892.3(3) *Required specific criteria:*

- a. Three hours of the 40 continuing education hours will be in ethics.
- b. Effective with the biennial continuing education compliance period that begins October 1, 2022, persons serving in a supervisory role must complete three hours of continuing education in supervision.
- c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.
- d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in child abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

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These rules are intended to implement Iowa Code section 272C.2 and chapter 154D.

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CHAPTER 893
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS,
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS,
AND ASSISTANT BEHAVIOR ANALYSTS

[Prior to 1/30/02, see 645—Chapter 31]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 33]

481—893.1(154D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

893.1(1) Failure to comply with the national association's code of ethics.

a. Marital and family therapists. Failure to comply with the current American Association for Marriage and Family Therapy (AAMFT) Code of Ethics revised January 2015, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AAMFT's website.

b. Mental health counselors. Failure to comply with the current Code of Ethics of the American Counseling Association (ACA) published 2014, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the ACA website.

c. Behavior analysts and assistant behavior analysts. Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts published January 2023, which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB website.

893.1(2) Sexual relationships.

a. Current clients. A licensee shall not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. Former clients. A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee shall not provide clinical services to an individual with whom the licensee has had prior sexual contact.

893.1(3) Physical contact. A licensee shall not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries which govern such contact.

This rule is intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 894
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 34]

481—894.1(17A,272C) Board of behavioral science adoption of uniform and model rules. The board hereby adopts by reference the following:

894.1(1) to **894.1(9)** Reserved.

894.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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BOARD OF SOCIAL WORK

CHAPTER 895

LICENSURE OF SOCIAL WORKERS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 280]

481—895.1(154C) Definitions. For purposes of these rules, the following definitions apply:

“*Active license*” means a license that is current and has not expired.

“*ASWB*” means the Association of Social Work Boards.

“*Board*” means the board of social work.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*LBSW*” means licensed bachelor social worker.

“*Licensee*” means any person licensed to practice as a social worker in the state of Iowa.

“*License expiration date*” means December 31 of even-numbered years.

“*LISW*” means licensed independent social worker.

“*LMSW*” means licensed master social worker.

“*Mandatory reporter training*” means the training requirements in Iowa Code section 232.69.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—895.8(17A,147,272C).

“*Reinstatement*” means the process as outlined in rule 481—506.31(272C).

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.2(154C) Social work services subject to regulation. Social work services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and be subject to regulation in Iowa.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.3(154C) Requirements for licensure. The following criteria shall apply to licensure:

895.3(1) The applicant submits a completed application for licensure and pays the nonrefundable licensure fee specified in rule 481—507.19(147,154C).

895.3(2) No application will be considered by the board until official copies of academic transcripts have been received by the board except as provided in subrule 895.3(7).

895.3(3) The applicant provides verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

895.3(4) The applicant will take the examination(s) provided in rule 481—895.4(154C).

895.3(5) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

895.3(6) Incomplete applications that have been on file in the board office for more than two years will be:

- a. Considered invalid and be destroyed; or
- b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

895.3(7) In lieu of the requirements in subrules 895.3(2) and 895.3(3), the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.4(154C) Written examination.

895.4(1) The applicant will take and pass the ASWB examination at the appropriate level as follows:

- a. Bachelor level social worker—the basic level examination.
- b. Master level social worker—the intermediate level examination.
- c. Independent level social worker—the clinical level examination.

895.4(2) The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

895.4(3) The ASWB passing score will be utilized as the Iowa passing score.

895.4(4) An applicant may sit for the examination if the applicant meets the requirements stated in rule 481—895.3(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office.

895.4(5) In lieu of the requirements in subrule 895.4(2), the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

895.4(6) In lieu of the requirements in subrule 895.4(1), the board will accept verification of passing the state of California equivalent level licensing examination.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.5(154C) Educational qualifications.

895.5(1) Bachelor level social worker. An applicant for a license will possess a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

895.5(2) Master and independent level social worker. An applicant for a license will present evidence satisfactory to the board that the applicant:

a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or

b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

895.5(3) Foreign-trained social workers shall provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone 310.258.9451, website www.ierf.org or email at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1701 Duke Street, Suite 200, Alexandria, Virginia 22314-3457, telephone 703.683.8080, website www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The applicant shall bear the expense of the curriculum evaluation.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.6(154C) Supervised clinical experience. An applicant for licensure as an independent level social worker must complete a supervised clinical experience as set forth in this rule.

895.6(1) Minimum requirements. The supervised clinical experience must satisfy all of the following requirements:

a. *Timing.* The supervised clinical experience cannot begin until after licensure as a master level social worker.

b. *Duration.* The supervised clinical experience must be a minimum of two years.

c. *Minimum number of hours.* The supervised clinical experience consists of at least 3,000 hours of practice.

d. *Minimum number of direct client hours.* The supervised clinical experience consists of at least 1,500 hours of direct client contact.

e. *Minimum number of direct supervision hours.* The supervised clinical experience consists of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision are complete, ongoing direct supervision will continue to occur for the remainder of the supervised clinical experience.

f. *Number of supervisors.* A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

g. *Number of supervisees.* A supervisor will determine the number of supervisees who can be supervised safely and competently and will not exceed that number.

h. *Content.* The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR),

published March 2022, and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience will prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

895.6(2) Eligible supervisors. A supervisor must satisfy all of the following requirements:

- a. Hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.
- b. Have a minimum of three years of independent practice.
- c. Have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.
- d. Be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.

Any request for a supervisor who does not meet these requirements must be approved by the board before supervision begins.

895.6(3) Supervision plan. Prior to beginning supervision, the supervisee will submit a written supervision plan to the board using the current form published by the board. The supervisee will also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

895.6(4) Supervision report. When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee will ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

895.6(5) Supervised clinical experience in other states. An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience completed can be used to qualify for licensure in Iowa.

895.6(6) Grandfather clause. Any new or additional requirements imposed by this rule do not apply to supervision that started prior to July 20, 2022.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.7(154C) License renewal.

895.7(1) The biennial license renewal period for a license to practice social work will begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee will renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

895.7(2) Renewal procedures.

a. A licensee seeking renewal will:

(1) Meet the continuing education requirements of rule 481—896.2(154C) and the mandatory reporting requirements of subrule 895.7(3); and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. Those persons licensed for the first time will 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 27 hours of continuing education per biennium for each subsequent license renewal.

c. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

d. Failure to receive the notice of renewal will not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

e. A social worker whose Iowa license is delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

895.7(3) Mandatory reporting of child abuse and dependent adult abuse.

a. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa will complete an initial two-hour child abuse mandatory reporter training course offered by the department of health and human services within six months of employment, or prior to the expiration of a current certificate. Thereafter, all mandatory reporters will take a one-hour recertification training every three years, prior to the expiration of a current certificate.

b. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa will complete an initial two-hour dependent adult abuse mandatory reporter training course offered by the department of health and human services within six months of employment, or prior to the expiration of a current certificate. Thereafter, all mandatory reporters will take a one-hour recertification training every three years, prior to the expiration of a current certificate.

c. The requirement for mandatory reporter training for identifying and reporting child and dependent adult abuse will 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 waiver 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 481—Chapter 895.

d. The board may select licensees for audit of compliance with the requirements in paragraphs 895.7(3) “a” and “b.”

895.7(4) Late renewal. To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

895.7(5) 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 social worker in Iowa until the license is reactivated. A licensee who practices as a social worker 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.

895.7(6) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

895.8(1) Submit a reactivation application.

895.8(2) Pay the reactivation fee that is due as specified in 481—subrule 507.19(4).

895.8(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant will provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant will provide the verifications in both subparagraphs 895.8(3) “b”(1) and (2) below plus the verification in subparagraph 895.8(3) “b”(3) or (4) below.

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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.

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

(3) Verification of passing the ASWB examination within the last five years at the appropriate or higher level as follows:

1. Bachelor level social worker—the bachelor's level examination; or
2. Master level social worker—the master's level examination; or
3. Independent level social worker—the clinical level examination; or

(4) Verification of continued social work practice at the appropriate or higher level in another state for a minimum of two years immediately preceding the application for reactivation.

[ARC 8057C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—895.9(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—895.8(17A,147,272C) prior to practicing social work in this state.

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These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

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◇ Two or more ARCs

¹ Effective date of rules 161.212 to 161.217 delayed 70 days by the Administrative Rules Review Committee.

² Effective date of 280.100(154C) is July 1, 1993.

³ Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

CHAPTER 896
CONTINUING EDUCATION FOR SOCIAL WORKERS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 281]

481—896.1(154C) Definitions. For the purpose of these rules, the following definitions 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 social work.

“*Continuing education*” means planned, organized learning acts acquired during licensure 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.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a social worker in the state of Iowa.

[ARC 8058C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—896.2(154C) Continuing education requirements.

896.2(1) The biennial continuing education compliance period extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state will be required to complete a minimum of 27 hours of continuing education approved by the board.

896.2(2) Requirements of new licensees. Those persons licensed for the first time during the license renewal period will 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 renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

896.2(3) Requirement of supervisors. For licensure at the independent level, persons serving in a supervisory role must complete three hours of continuing education in supervision.

896.2(4) 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.

896.2(5) No hours of continuing education will be carried over into the next biennium except as stated for the 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.

896.2(6) The licensee will maintain a personal file with all documentation of the continuing education credits obtained.

[ARC 8058C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—896.3(154C,272C) Standards.

896.3(1) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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;

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor;
and

f. Contains one of the following content areas:

(1) Human behavior.

1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;

2. Community and organizational theories;

3. Normal, abnormal and addictive behaviors;

4. Abuse and neglect; and

5. Effects of culture, race, ethnicity, sexual orientation and gender.

(2) Assessment and treatment.

1. Psychosocial assessment/interview;

2. Utilization of the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) of the American Psychiatric Association, published March 2022;

3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;

4. Establishing treatment goals and monitoring progress;

5. Techniques of social work practice; and

6. Interdisciplinary consultation and collaboration.

(3) Social work research, program evaluation, or practice evaluation.

(4) Management, administration, and social policy.

1. Organizational policies and procedures;

2. Advocacy and prevention in social work practice;

3. Management of social work staff and other personnel; and

4. Management of social work programs.

(5) Theories and concepts of social work education.

(6) Social work ethics as they pertain to the rules of conduct.

(7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee will submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.

896.3(2) *Specific criteria.* Continuing education hours of credit can be obtained by completing:

a. A minimum of three hours per biennium in social work ethics.

b. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

c. Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.

d. Activities/programs that are sponsored or approved by:

(1) ASWB Approved Continuing Education (ACE) program; or

(2) National Association of Social Workers (NASW) Continuing Education Unit (CEU) Approval Program.

e. Pro bono or volunteer work that meets the following criteria:

(1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro bono or volunteer services for indigent, underserved populations or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

(2) A licensee will apply for prior approval of pro bono or volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to the rules of 481—Chapter 897.

5. A representative from the site for pro bono or volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro bono or volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.
- The representative from the site must provide a letter indicating such completion.

f. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium.

g. Instruction, presentation, or moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program, provided the licensee receives a certificate of attendance in compliance with this rule.

h. Authorship of professional papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

i. Supervision of a social work practicum student(s) from an accredited social work education program. A licensee may receive one credit for every 100 hours supervised, not to exceed 6 hours of continuing education credit per biennium.

[ARC 8058C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 154C.

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[Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

¹ Effective date of 281.3(1) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 9, 2001.

CHAPTER 897
PRACTICE OF SOCIAL WORKERS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 282]

481—897.1(154C) Definitions.

“*Client*” means the individual, couple, family, or group to whom a licensee provides direct social work services.

“*Clinical services*” means services provided by an LMSW or LISW that involve the professional application of social work theory and methods in diagnosing, assessing, treating, and preventing psychosocial disabilities or impairments, including emotional and mental disorders.

“*Counseling*” means a method used by licensees to assist clients in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

“*Psychosocial therapy*” means a specialized, formal interaction between an LMSW or LISW and a client in which a therapeutic relationship is established and maintained to assist the client in overcoming or abating specific emotional, mental, or social problems and achieving specified goals for well-being. Psychosocial therapy is a form of psychotherapy that emphasizes the interface between the client and the client’s environment. Therapy is a planned, structured program based on a diagnosis and is directed to accomplish measurable goals and objectives specified in the client’s individual treatment plan.

[ARC 8059C, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 9/18/24]

481—897.2(154C) Rules of conduct.**897.2(1) *Informed consent.***

a. A licensee will provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A licensee will use clear and understandable language to inform clients about the nature of available services, potential benefits and risks, limits and risks of confidentiality, alternative ways of receiving assistance, applicable fees, and involvement of and sharing information with third parties.

b. If a client has difficulty communicating, a licensee will attempt to ensure the client’s comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible. A licensee will provide information in a manner that is understandable and culturally appropriate for the client. Clients will be given sufficient opportunity to ask questions and receive answers about social work services, including electronic delivery of services, if appropriate.

c. If a client lacks the capacity to provide informed consent, a licensee will protect the client’s interests by seeking permission from an appropriate third party and will inform the client consistent with the client’s level of understanding. In such instances, a licensee will seek to ensure that the third party acts in a manner consistent with the client’s wishes and interests. A licensee will take reasonable steps to enhance the client’s ability to give informed consent.

d. If a client is receiving services involuntarily, a licensee will provide information about the nature and extent of services and about the extent of the client’s right to refuse services.

e. The provision of social work services to an individual in this state through any electronic means, including the Internet, telephone, or the Iowa communications network or any fiberoptic media, regardless of the location of the licensee, constitutes the practice of social work in the state of Iowa and will be subject to regulation in accordance with Iowa Code chapters 147 and 154C and the administrative rules of the board. A licensee who provides services via electronic media will inform recipients of the limitations and risks associated with such services.

f. A licensee will obtain a client’s informed consent before audiotaping or videotaping the client or permitting a third party to observe services provided to the client.

g. A licensee will develop policies regarding the sharing, retention, and storage of digital and other electronic communications and records and will inform clients of applicable policies.

897.2(2) *Competence.*

a. A licensee will provide services and represent oneself as competent only within the boundaries of the licensee’s education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

b. A licensee will provide services in substantive areas or use intervention techniques or approaches that are new only after engaging in appropriate study, training, consultation, and supervision from people who are competent in those areas, interventions, or techniques.

c. When generally recognized standards do not exist with respect to an emerging area of practice, a licensee will exercise careful judgment and take responsible steps, including appropriate education, research, training, consultation and supervision, to ensure competence and to protect clients from harm.

897.2(3) Supervision.

- a.* A licensee will exercise appropriate supervision over persons who practice under the supervision of the licensee.
- b.* A licensee who provides supervision or consultation will have the necessary knowledge and skill to supervise or consult appropriately and will do so only within the licensee's areas of knowledge and competence.
- c.* A licensee who provides supervision or consultation is responsible for setting clear, appropriate, and culturally sensitive boundaries.
- d.* A licensee will not engage in any dual or multiple relationships with supervisees if there is a risk of exploitation of or potential harm to the supervisee.
- e.* A licensee will not engage in sexual activities or sexual contact with a supervisee, student, trainee, or other colleague over whom the licensee exercises professional or supervisory authority.
- f.* A licensee will not employ, assign, or supervise an individual in the performance of services that require a license if the individual has not received a license to perform the services or if the individual has a suspended, revoked, lapsed, or inactive license.
- g.* A licensee will not practice without receiving supervision, as needed, given the licensee's level of practice, experience, and need.

897.2(4) Privacy and confidentiality.

- a.* A licensee will not disclose or be compelled to disclose client information unless required by law, except under the following limited circumstances:
 - (1) Situations in which the licensee determines that disclosure is necessary to prevent serious, foreseeable, and imminent harm to the client or another specific identifiable person.
 - (2) Situations in which the client waives the privilege by bringing criminal, civil, or administrative charges or action against a licensee.
 - (3) With the written informed consent of the client that explains to whom the client information will be disclosed or released and the purpose and time frame for the release of information. If the client is deceased or unable to provide informed consent, a licensee will obtain written consent from the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.
 - (4) To testify in a court or administrative hearing concerning matters pertaining to the welfare of children.
 - (5) To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.
 - (6) Pursuant to a validly issued subpoena or court order.

In the event of a disclosure of information under any of the circumstances stated above, the licensee will disclose the least amount of confidential information necessary and will reveal only that information that is directly relevant to the purpose for which the disclosure is made.

- b.* Before the disclosure is made, on the basis of client consent or other legal basis, a licensee will inform the client, to the extent possible, about the disclosure of confidential information and the potential consequences of the disclosure.
- c.* A licensee will discuss with clients and other interested parties the nature of confidentiality and limitations of a client's right to confidentiality. A licensee will review with clients the circumstances under which confidential information may be requested and when disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.
- d.* When a licensee provides counseling or psychosocial therapy services to families, couples, or groups, the licensee will seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others. A licensee will inform participants in family, couples, or group counseling or psychosocial therapy that the licensee cannot guarantee that all participants will honor such agreements.
- e.* A licensee will inform clients involved in family, couples, marital, or group counseling or psychosocial therapy of the licensee's, the licensee's employer's, and the agency's policy concerning the licensee's disclosure of confidential information among the parties involved in the counseling or psychosocial therapy.
- f.* A licensee will not disclose confidential information to third-party payers unless a client has authorized such disclosure. A licensee will inform the client of the nature of the client information to be disclosed or released to the third-party payer.
- g.* A licensee will not discuss confidential information in any setting unless privacy can be ensured.
- h.* A licensee will protect the confidentiality of clients during legal proceedings to the extent permitted by law.

i. A licensee will protect the confidentiality of clients when the licensee is responding to requests from members of the media.

j. A licensee will protect the confidentiality of clients' written and electronic records and other sensitive information. A licensee will take reasonable steps to ensure that client records are stored in a secure location and that client records are not available to others who are not authorized to have access.

k. A licensee will take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones, telephone answering machines, and other electronic or computer technology.

l. A licensee will transfer or dispose of client records in a manner that protects client confidentiality and is consistent with federal and state statutes, rules and regulations and the guidelines of the licensee's employer or agency, if applicable.

m. A licensee will take reasonable precautions to protect client confidentiality in the event of the licensee's termination of practice, incapacitation, or death.

n. A licensee will not disclose identifying information when discussing a client for teaching or training purposes or in public presentations unless the client has consented to disclosure of confidential information.

o. A licensee will not disclose identifying information when discussing a client with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.

p. Consistent with the preceding standards, a licensee will protect the confidentiality of deceased clients.

897.2(5) Recordkeeping.

a. A licensee will maintain sufficient, timely, and accurate documentation in client records. A licensee's records will reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

b. A licensee who provides clinical services in any employment setting, including private practice, will maintain timely records that include subjective and objective data, assessment or diagnosis, a treatment plan, and any revisions to the assessment, diagnosis, or plan made during the course of treatment.

c. A licensee who provides clinical services will store records in accordance with state and federal statutes, rules, and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee will store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.

897.2(6) Access to records. A licensee who provides clinical services will:

a. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client will provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request and the rationale for withholding some or all of a record should be documented in the client's records.

b. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

897.2(7) Billing and fees.

a. A licensee will bill only for services that have been provided.

b. A licensee will not accept goods or services from the client or a third party in exchange for the licensee's services.

c. A licensee will not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the licensee's employer or agency.

d. A licensee will not accept, give, offer or solicit a fee, commission, rebate, fee split, or other form of consideration for the referral of a client.

e. A licensee will not permit any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant to the licensee.

f. A licensee who provides clinical services will, when appropriate:

(1) Establish and maintain billing practices that accurately reflect the nature and extent of services provided.

(2) Inform the client of the fee for services at the initial session or meeting with the client. A licensee will provide a written payment arrangement to a client at the commencement of the professional relationship.

897.2(8) Dual relationships and conflicts of interest.

a. "Dual relationship" means that a licensee develops or assumes a secondary role with a client, including but not limited to a social relationship, an emotional relationship, an employment relationship, or a business association. For purposes of these rules, "dual relationship" does not include a sexual relationship. Standards governing sexual relationships are found in subrule 897.2(9).

(1) Current clients. A licensee will not engage in a dual relationship with a client.

(2) Former clients. A licensee will not engage in a dual relationship with a client within five years of the termination of the client relationship. A licensee will not engage in a dual relationship with a former client, regardless of the length of time elapsed since termination of the client relationship, when there is a risk of exploitation or potential harm to a client or former client.

(3) Unavoidable dual relationships with current and former clients. If a dual relationship with a current or former client is unavoidable, the licensee will take steps to protect the client and will be responsible for setting clear, appropriate, and culturally sensitive boundaries. The burden will be on the licensee to show that the dual relationship was unavoidable. In determining whether a dual relationship was unavoidable, the board will consider the size of the community, the nature of the relationship, and the risk of exploitation or harm to a client or former client.

b. Conflicts of interest.

(1) A licensee will avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

(2) A licensee will not continue in a professional relationship with a client when the licensee has become emotionally involved with the client to the extent that objectivity is no longer possible in providing the required professional services.

(3) A licensee will inform the client when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the client's interests primary and protects the client's interests to the greatest extent possible. In some cases, protecting the client's interests may require termination of the professional relationship with proper referral of the client.

(4) A licensee will not take unfair advantage of any professional relationship or exploit others to further the licensee's personal, religious, political, or business interests.

(5) A licensee who provides services to two or more people who have a relationship with each other will clarify with all parties, when appropriate and in a manner consistent with the confidentiality standards of subrule 897.2(4), which individuals will be considered clients and the nature of the licensee's professional obligations to the various individuals who are receiving services. A licensee who anticipates a conflict of interest among the individuals receiving services or who anticipates having to perform in potentially conflicting roles will clarify, when appropriate and in a manner consistent with the confidentiality standards at subrule 897.2(4), the licensee's role with the parties involved and take appropriate action to minimize any conflict of interest.

897.2(9) *Sexual relationships.*

a. Current clients. A licensee will not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. Former clients. A licensee will not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee will not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee will not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee will not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee will not provide clinical services to an individual with whom the licensee has had prior sexual contact.

897.2(10) *Physical contact.* A licensee will not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries that govern such contact.

897.2(11) *Termination of services.*

a. A licensee will terminate services when such services are no longer required or no longer serve the client's needs or interests.

b. A licensee will take reasonable steps to avoid abandoning clients who are still in need of services. A licensee will assist in making appropriate arrangements for continuation of services when necessary.

c. A licensee will not terminate services to pursue a social, financial, business, romantic, or sexual relationship with a client.

d. A licensee who anticipates the termination or interruption of services to a client will notify the client promptly and seek the transfer, referral, or continuation of services in relation to the client's needs and preferences.

e. A licensee who is leaving an employment setting will inform clients, to the extent possible given the nature of the termination of the employment relationship, of appropriate options for the continuation of services and of the benefits and risks of the options.

f. If the employer who terminates a licensee is also a licensee, the employer will provide notice to clients or allow the licensee the opportunity to provide notice to clients to ensure appropriate case closure or continuation or transfer of services if continued treatment is necessary.

g. A licensee who provides clinical services will comply with the following additional standards regarding termination of the client relationship:

(1) Termination of a client relationship will be documented in the client record. Absent written documentation of termination, the professional relationship will be considered ongoing.

(2) A licensee who practices in a fee-for-service setting may terminate services to a client who is not paying an overdue balance only if the financial contractual arrangements have been made clear to the client, if the client does not pose an imminent danger to self or others, and if the clinical and other consequences of the current nonpayment have been addressed and discussed with the client. Prior to terminating services under this subrule, a licensee will make reasonable efforts to collect the unpaid fees and will make appropriate referrals for the client.

897.2(12) *Misrepresentations, disclosure.* A licensee will not:

a. Knowingly make a materially false statement, or fail to disclose a relevant material fact, in a letter of reference, application, referral, report or other document.

b. Knowingly allow another person to use the licensee's license or credentials.

c. Knowingly aid or abet a person who is misrepresenting the person's professional credentials or competencies.

d. Impersonate another person or misrepresent an organizational affiliation in one's professional practice.

e. Further the application or make a recommendation for professional licensure of another person who is known by the licensee to be unqualified in respect to character, education, experience, or other relevant attribute.

f. Fail to notify the appropriate licensing authority of any human services professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.

g. Engage in professional activities, including advertising, that involve dishonesty, fraud, deceit, or misrepresentation.

h. Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, highest relevant degree, and licensure status of the provider of services.

i. Fail to distinguish, or purposely mislead the reader or listener, in public announcements, addresses, letters and reports as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.

j. Engage in direct solicitation of potential clients for pecuniary gain in a manner or in circumstances that constitute overreacting, undue influence, misrepresentation or invasion of privacy.

k. Fail to inform each client of any financial interests that might accrue to the licensee for referral to any other person or organization or for the use of tests, books, or apparatus.

l. Fail to inform each client that the client may be entitled to the same services from a public agency if the licensee is employed by that public agency and also offers services privately.

m. Make claims of professional superiority that cannot be substantiated by the licensee.

n. Guarantee that satisfaction or a cure will result from the performance of professional services.

o. Claim or use any secret or special method of treatment or techniques that the licensee refuses to divulge to professional colleagues.

p. Take credit for work not personally performed, whether by giving inaccurate information or failing to give accurate information.

q. Offer social work services or use the designation of licensed bachelor social worker, licensed master social worker, or licensed independent social worker; use the designations LBSW, LMSW, or LISW or any other designation indicating licensure status; or hold oneself out as practicing at a certain level of licensure unless the licensee is duly licensed as such.

r. Permit another person to use the licensee's license for any purpose.

s. Practice outside the scope of a license.

897.2(13) *Impairments.*

a. A licensee will not:

(1) Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

(2) Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the licensee to perform professional duties in a competent and safe manner.

(3) Practice in a professional relationship if involuntarily committed for treatment of mental illness, drug addiction, or alcoholism.

b. A licensee who self-reports an impairment or suspected impairment to the board may be eligible for confidential monitoring by the impaired practitioner review committee. The licensee will be provided the Impaired Practitioner Report form to initiate the process. Standards governing the impaired practitioner review committee may be found in 481—Chapter 505.

897.2(14) Research. If engaged in research, a licensee will:

- a. Consider carefully the possible consequences for human beings participating in the research.
- b. Protect each participant from unwarranted physical and mental harm.
- c. Ensure that the consent of the participant is voluntary and informed and that each participant executes a signed informed consent form that details the nature of the research and any known possible consequences.
- d. Treat information obtained as confidential.
- e. Not knowingly report distorted, erroneous, or misleading information.

897.2(15) Organization relationships and business practices. A licensee will not:

- a. Solicit the clients of colleagues or assume professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague.
- b. Abandon an agency, organization, institution, or group practice without reasonable notice or under circumstances that seriously impair the delivery of professional care to clients.
- c. Deliberately falsify client records.
- d. Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client is adversely affected.
- e. Delegate professional responsibilities to a person when the licensee knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

897.2(16) Discrimination and sexual harassment.

- a. A licensee will not practice, condone, or facilitate discrimination against a client, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.
- b. A licensee will not sexually harass a client, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

897.2(17) General. A licensee will not:

- a. Practice without receiving supervision as needed, given the licensee's level of practice, experience, and need.
- b. Practice a professional discipline without an appropriate license or after expiration of the required license.
- c. Physically or verbally abuse a client or colleague.
- d. Obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority; or sell, prescribe, give away, or administer controlled substances.

897.2(18) Relationship between the board's rules of conduct and the National Association of Social Workers (NASW) Code of Ethics. The NASW Code of Ethics is one resource for practitioners with respect to practice and ethical issues, and selected sections from the NASW Code of Ethics have been incorporated into the rules of conduct. A licensee's professional conduct is governed by the board's rules of conduct, and a licensee may be disciplined for violation of these rules.

897.2(19) Electronic social work services. A licensee will:

- a. Assess the client's suitability and capacity for online and remote services at the point of the client's first contact and use professional judgment to determine whether an initial in-person, videoconference, or telephone consultation is warranted before undertaking electronic social work services.
- b. Take reasonable steps to verify the client's identity, ability to consent to services, and location. When verification of a client's identity is not feasible, social workers will inform the client of the limitations of services that can be provided.
- c. Continually assess a client's suitability for electronic social work services during the course of the professional relationship.

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These rules are intended to implement Iowa Code chapters 147, 154C, and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 898
DISCIPLINE FOR SOCIAL WORKERS

[Prior to 9/19/01, see 645—Chapter 280]

[Prior to 9/3/03, see 645—Chapter 282]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 283]

481—898.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

Violation of a regulation, rule, or law of this state, another state, or the United States that relates to the practice of social work, including but not limited to the rules of conduct found in rule 481—897.2(154C).

This rule is intended to implement Iowa Code chapters 147, 154C and 272C.

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CHAPTER 899
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 284]

481—899.1(17A,272C) Board of social work adoption of uniform and model rules. The board hereby adopts by reference the following:

899.1(1) to **899.1(9)** Reserved.

899.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

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BOARD OF MORTUARY SCIENCE

CHAPTER 900

PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS

[Prior to 9/21/88, see Health Department[470] Ch 146]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 100]

481—900.1(156) Definitions.

“Alternative container” means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains and that is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials that prevents the leakage of body fluid.

“Authorized person” means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements, including but not limited to embalming, cremation, funeral services, and the disposition of human remains pursuant to Iowa Code section 144C.5.

“Autopsy” means the postmortem examination of a human remains.

“Board” means the board of mortuary science.

“Body parts” means appendages or other portions of the anatomy that are from a human body.

“Burial.” See *“Interment.”*

“Burial transit permit” means a legal document authorizing the removal and transportation of a human remains.

“Casket” means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

“Cemetery” means an area designated for the final disposition of human remains.

“Columbarium” means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

“Cremated remains” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization that leaves only bone fragments reduced to unidentifiable dimensions and may include the residue of any foreign matter, including casket material, bridgework or eyeglasses that were cremated with the human remains.

“Cremation” means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation will include the processing, and may include the pulverization, of the bone fragments.

“Cremation authorization form” means a form, completed and signed by a funeral director and authorized person, to accompany all human remains accepted for cremation.

“Cremation chamber” means the enclosed space within which a cremation takes place.

“Cremation establishment” means any person, partnership or corporation that is licensed by the board and provides any aspect of cremation services.

“Cremation permit” means a permit issued by a medical examiner allowing cremation for human remains.

“Cremation room” means the room in which the cremation chamber is located.

“Crypt” means a chamber in a mausoleum of sufficient size to contain casketed human remains.

“Custody” means immediate charge and control exercised by a person or an authority.

“Dead body.” See *“Human remains.”*

“Death certificate” means a legal document containing vital statistics pertaining to the life and death of the decedent.

“Decedent.” See *“Human remains.”*

“Disinterment” means to remove a human remains from its place of final disposition.

“Disinterment permit” means a permit from the department of health and human services that allows the removal of a human remains from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

“Disinterment permit number” means the number assigned to a disinterment permit by the department of health and human services, giving the funeral director the authority to remove a human remains from its place of final disposition.

“Embalming” means the disinfection or temporary preservation of human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of temporary preservation or disinfection.

“Embalming record” means a record completed by the licensed funeral director or registered intern for each body embalmed in Iowa, or otherwise prepared for disposition by the licensee. “Embalming record” includes, at a minimum, a case analysis and a detailed listing of the procedures or treatments or both performed on the deceased.

“Entombment” means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

“Final disposition” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

“Funeral ceremony” means a service commemorating the decedent.

“Funeral director” means a person licensed by the board to practice mortuary science.

“Funeral establishment” means a place of business as defined and licensed by the board devoted to providing any aspect of mortuary science.

“Funeral rule” means the Federal Trade Commission Funeral Rule, 16 CFR §453.4, as amended to 1994.

“Funeral services” means any services that may be used to (1) care for and prepare human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of human remains.

“Holding facility” means an area isolated from the general public that is designated for the temporary retention of human remains.

“Human remains” means a deceased human being for which a death certificate or fetal death certificate is required.

“Interment” means to place a casketed human remains or an urn containing cremated remains in the ground.

“Intern” means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board.

“Mausoleum” means an aboveground structure designed for entombment of human remains.

“Medical examiner” means a public official whose primary function is to investigate and determine the cause of death when death may be thought to be from other than natural causes.

“Memorial ceremony” means a service commemorating the decedent.

“Niche” means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

“Preparation room” means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

“Pulverization” means a process following cremation that reduces identifiable bone fragments into granulated particles.

“Removal” means the act of taking a human remains from the place of death or place where the human remains is being held to a funeral establishment or other designated place.

“Removal technician” means a person registered with the board to perform removals.

“Scattering area” means a designated area where cremated remains may be commingled with other cremated remains.

“Temporary cremation container” means a durable receptacle designed for short-term retention of cremated remains.

“Their own dead” refers to the legal authority the authorized person has regarding a human remains.

“Topical disinfection” means the direct application of chemical substances on the surface of a human remains for the purpose of temporary preservation or disinfection.

“Transfer.” See *“Removal.”*

“Universal precautions” means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious as prescribed by the Centers for Disease Control and Prevention (CDC).

“Urn” means a receptacle designed for permanent retention of cremated remains.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.2(156) Funeral director duties.

900.2(1) Practices requiring a funeral director’s license include but are not limited to:

- a. Removal as specified in rule 481—900.4(142,156).
- b. Embalming human remains as specified in rule 481—900.6(156) and completing embalming records as specified in paragraph 900.11(2)“d.”
- c. Conducting funeral arrangements as specified in subrule 900.7(2).
- d. Conducting funeral services when contracted to do so, including:
 - (1) Direct supervision of visitation and viewing.

- (2) Funeral and memorial ceremonies.
- (3) Committal and final disposition services.
- e. Conducting cremation services as specified in rule 481—900.10(156).
- f. Signing death certificates and performing associated duties under Iowa Code chapter 144.

900.2(2) Delegation of professional tasks.

a. Registered interns. Registered interns may provide funeral director services identified in paragraphs 900.2(1) “a” through “f” under the direct supervision of an Iowa-licensed preceptor. A registered intern will not sign a death certificate.

b. A funeral director may delegate solely the transportation of unembalmed human remains to a registered removal technician pursuant to subrule 900.4(3).

900.2(3) CDC universal precautions and OSHA standards. The funeral director and delegates identified in subrule 900.2(2) will observe current guidelines of universal precautions as prescribed by the Centers for Disease Control and Prevention (CDC) as well as Occupational Safety and Health Administration (OSHA) standards.

900.2(4) Funeral directors who provide mortuary science services from funeral establishments located in another state. A funeral director who holds an active Iowa funeral director’s license and whose practice is conducted from a funeral establishment located in another state may provide mortuary science services in Iowa if the establishment holds a current license in the state in which it is located, if such a license is required.

900.2(5) Withholding human remains. A funeral director will not withhold human remains based solely on nonpayment of fees.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.3(156) Permanent identification tag.

900.3(1) The funeral director, intern, or removal technician who assumes possession of a human remains will attach a permanent identification tag.

900.3(2) The identification tag will initially contain, at a minimum, the name of the deceased.

900.3(3) Before final disposition, the identification tag will contain the name of the deceased and the date of birth, date of death and social security number of the deceased and the name and license number of the funeral establishment in charge of disposition.

900.3(4) The identification tag will be attached to the human remains throughout the entire time the human remains are in the possession of the funeral establishment and will remain with the human remains.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.4(142,156) Removal and transfer of human remains.

900.4(1) Removal and transfer of human remains. The funeral director will perform the following duties upon notification of a death:

a. Comply with jurisdictional authority, with respect to medicolegal responsibilities, regarding the removal of the human remains.

b. Provide signature and license number when removing a human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

900.4(2) After the funeral director has assumed custody of the human remains, the funeral director may delegate the task of transferring the human remains to an unlicensed employee, intern, or agent. Prior to transfer, the funeral director will topically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit.

900.4(3) A funeral director may delegate to a removal technician the removal and transportation of unembalmed human remains without first assuming custody, and without topically disinfecting or securing body orifices, if either of the following is true. The removal and transportation is:

a. At the direction of the medical examiner; or

b. To or from the funeral establishment where the removal technician is registered.

900.4(4) A removal technician must complete the annual OSHA training related to blood-borne pathogens, formaldehyde exposure and proper lifting techniques.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.5(135,144) Burial transit permits. A licensed funeral director may issue a burial transit permit for the removal and transfer of human remains, according to state law and the administrative rules promulgated by the department of health and human services.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.6(156) Preparation and embalming activities.

900.6(1) The funeral director will perform the following duties prior to and during embalming according to commonly accepted industry standards.

a. Obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained from the authorized person, the funeral director may proceed with the embalming if necessary to comply with subrule 900.6(3).

b. Embalm entirely in private. No one except the funeral director, intern, immediate family, or student will be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science that is recognized by the board to be allowed in the preparation room without written permission during the embalming.

c. Keep the human remains properly covered at all times.

d. Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

e. Position the human remains on the preparation table and pose the facial features.

f. Select points of drainage and injection, and raise the necessary vessels.

g. Embalm by arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, will be performed.

h. Evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions once the arterial and cavity injection of the embalming chemicals is complete.

900.6(2) Postembalming activities. The funeral director will perform the following duties at the conclusion of the embalming activities if necessary.

a. Pack or otherwise secure all body orifices with material that will absorb and retain all secretions.

b. Apply chemicals topically and perform hypodermic treatments.

c. Bathe, disinfect and reposition the human remains.

d. Clean and disinfect the embalming instruments, equipment and preparation room.

e. Perform any restorative treatments.

f. Select and apply the appropriate cosmetic treatments.

g. Prepare the human remains for viewing.

900.6(3) Care of the unembalmed human remains.

a. Embalming may be omitted provided that interment or cremation is performed within 72 hours after death or within 24 hours of taking custody if a human remains was previously in the custody of others, whichever is longer.

b. If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the maximum period provided in paragraph 100.6(3) "a." The body must be kept between 38 and 42 degrees Fahrenheit.

c. If viewing of the unembalmed human remains is requested, the human remains will be topically disinfected and all body orifices will be packed or otherwise secured with material that will absorb and retain all secretions.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.7(156) Arranging and directing funeral and memorial ceremonies.

900.7(1) *The Federal Trade Commission.* The funeral director will observe current guidelines of the Federal Trade Commission (FTC) funeral rule.

900.7(2) *Arrangement conference activities.* If responsible, the funeral director will perform the following duties associated with arranging ceremonies and the final disposition of a human remains.

a. Gather necessary statistical and biographical information relating to the decedent and explain the varied use of the information gathered.

b. Present, discuss and explain the mandated FTC price lists and assist or provide the consumer with:

(1) The types of ceremony or final disposition.

(2) The specific goods and services.

(3) The prices of any goods and services.

(4) The written, itemized statement of the funeral goods and services.

(5) A general price list.

At the conclusion of arrangements, the itemized statement will be signed by the purchaser and the funeral director.

900.7(3) *Directing of funeral and memorial ceremonies.* If responsible, the funeral director will perform the following duties:

- a. Direct and supervise ceremonies.
- b. Direct and supervise final disposition.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.8(142,156) Unclaimed human remains for scientific use.

900.8(1) A human remains is unclaimed when:

- a. The decedent did not express a desire to be interred, entombed or cremated.
- b. Relatives or friends of the decedent did not request that the decedent's human remains be interred, entombed or cremated.

900.8(2) Friend distinguished from casual acquaintance. A friend will be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

900.8(3) Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or reformatory will notify the department of health and human services as soon as any unclaimed human remains that may be suitable for scientific purposes will come into the person's custody.

900.8(4) Department instructions. When the department of health and human services receives notice, the funeral director will be instructed as to the proper disposition of a human remains.

900.8(5) Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of a human remains to a medical college will be paid by the medical college receiving the human remains.

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481—900.9(144) Disinterments. A funeral director in charge of a disinterment will ensure that the disinterment is performed in accordance with rules promulgated by the department of health and human services and will first secure a disinterment permit issued by the department of health and human services.

900.9(1) No person will disinter a human remains or cremated remains unless the funeral director in charge of the disinterment has a numbered disinterment permit that has been issued by the department of health and human services or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

900.9(2) All disinterment permits will be requested and provided by the department of health and human services.

900.9(3) All disinterment permits will be signed by the authorizing person.

900.9(4) Disinterment permits will be furnished upon request from the department of health and human services and will remain valid for 30 days after issuance.

900.9(5) Disinterment permits will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

900.9(6) Disinterment permits will be required for any relocation of a human remains from the original site of interment or entombment if the purpose is for autopsy or reburial.

900.9(7) No disinterment permit is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

900.9(8) A funeral director may await a court order before proceeding with disinterment if the funeral director is aware of a dispute among:

- a. Persons who are members of the same class of persons described in 641—subrule 97.14(4) as having authority to control the human remains; or
- b. Persons who are authorized pursuant to 641—subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

[ARC 7812C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—900.10(156) Cremation of human remains.

900.10(1) *Recordkeeping.*

a. *Delivery receipt.*

(1) When a human remains is delivered to a cremation establishment, the cremation establishment will furnish to the delivery person a delivery receipt containing:

1. The name, address, age, gender, and cause of death of the decedent whose human remains are delivered to the cremation establishment.
2. The date and time of delivery and the type of container that contains the human remains.

3. If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

4. The signature of the person who delivered the human remains.

5. The signature of the person receiving the human remains on behalf of the cremation establishment.

6. The name and business address of the cremation establishment.

(2) The cremation establishment will retain a copy of the delivery receipt in its permanent records.

b. Receiving receipt.

(1) The cremation establishment will furnish to any person who receives the cremated remains from the cremation establishment a receiving receipt containing:

1. The name of the decedent whose cremated remains are released from the cremation establishment.

2. The date and time when the cremated remains were released from the cremation establishment.

3. The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which that person is affiliated.

4. The signature of the person who receives the cremated remains.

5. The signature of the person who released the cremated remains on behalf of the cremation establishment.

6. The name of the cremation establishment operator and the date and time of the cremation.

(2) The cremation establishment will retain a copy of the receiving receipt in its permanent records.

c. Permanent record. A cremation establishment will maintain at its place of business a permanent record that includes the following:

(1) Name of the deceased person.

(2) Date and time of the cremation.

(3) Copies of the delivery receipt and the receiving receipt.

(4) Disposition of the cremated remains.

(5) Cremation authorization.

(6) Cremation permit if required in the jurisdiction of death.

900.10(2) *Employment of a funeral director by a cremation establishment.* No aspect of these rules will be construed to require a funeral director to supervise or perform any functions at a cremation establishment not otherwise required by law to be performed by a funeral director. The cremation establishment will contract only with a licensed funeral establishment and will not contract directly with the general public.

900.10(3) *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent.

900.10(4) *Authorization to cremate.*

a. The cremation establishment will have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the authorized person. The cremation authorization form will contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.

2. The date, time of death and cause of death of the decedent.

3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorized person.

4. The signature of the funeral director.

5. The name and address of the cremation establishment authorized to cremate a human remains.

6. The name and signature of the authorized person granting permission to cremate the human remains and the authorized person's relationship to the decedent.

7. A representation that the authorized person has the right to authorize the cremation of the decedent in accordance with this rule.

8. A representation that in the event there is another person who has superior priority right to that of the authorized person, the authorized person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.

9. A representation that a human remains does not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.

10. A representation that the authorized person has made a positive identification of the decedent or, if the authorized person is unavailable or declines, there are alternative means of positive identification.

11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.

12. The manner of the final disposition of the cremated remains.

13. A listing of all items of value and instructions for their disposition.

(2) The cremation permit if required in the jurisdiction of death.

(3) Any other documentation required by this state.

b. If the authorized person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, email, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The authorized person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The cremation establishment will honor any instructions from a funeral director or funeral establishment under this rule if the cremation establishment receives instructions prior to beginning the cremation.

900.10(5) Cremation procedures.

a. A cremation establishment will cremate human remains within 24 hours of issuance of the delivery receipt as defined in subrule 900.10(1).

b. No cremation establishment will cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials that will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

c. No cremation establishment will refuse to accept human remains for cremation because such human remains are not embalmed.

d. Whenever a cremation establishment is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the cremation establishment will place the human remains in a holding facility in accordance with the cremation establishment rules and regulations and within the parameters of rules 481—900.5(135,144) and 481—900.6(156).

e. No cremation establishment will accept human remains unless they are delivered to the cremation establishment in a container that prevents the leakage of body fluids.

f. Under no circumstances will an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

g. The container in which a human remains is delivered to the cremation establishment will be cremated with the human remains or safely destroyed.

h. The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, will prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the cremation establishment from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

i. No unauthorized person will be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

j. A cremation establishment will not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorized person and written instructions for the delivery of these items to the authorized person.

k. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process will be removed from the cremation chamber.

l. If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains will be returned to the authorized person or this person's designee in a separate container. The cremation establishment will not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

m. A cremation establishment will not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

n. Cremated remains will be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

o. A cremation establishment will maintain an identification system that will ensure the identity of human remains in the cremation establishment's possession throughout all phases of the cremation process. A noncombustible tag or disc that includes the name and license number of the cremation establishment and the city and state where the cremation establishment is located will be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

900.10(6) Disposition of cremated remains. If responsible, the funeral director will supervise the final disposition of the cremated remains as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche or by scattering them in a scattering area as defined in these rules, or they may remain in the personal care and custody of the authorized person.

After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director will be discharged.

b. Upon the completion of the cremation process, the cremation establishment will release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a burial transit permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the cremation establishment will be discharged from any legal obligation or liability concerning the cremated remains.

c. If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, will keep a permanent record identifying the site of final disposition. The authorizing person will be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to May 22, 2024, may dispose of them in accordance with this rule.

d. Except with the express written permission of the authorizing person, no funeral director or cremation establishment will:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition will not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

900.10(7) Scope of rules. These rules will be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules will take precedence over any existing laws containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

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481—900.11(156) Records to be retained by a funeral establishment. To ensure a permanent record of the licensed activity relating to the custody of each decedent, each funeral director will create and the funeral establishment will maintain the records identified in this rule. If a registered intern or registered removal technician first takes custody of a decedent, the funeral director from whom they were delegated that authority is responsible for compliance with the rules in this chapter. Funeral directors and funeral establishments will comply with the rules adopted by the department of health and human services under Iowa Code section 144.49.

900.11(1) At a minimum, the following information, if applicable, relating to each human remains that enters the custody of the establishment/licensee will be maintained as the permanent record of licensed activity:

- a. Name of the deceased;
- b. Date, time, and place of death (institution or other place, city, state, zip);
- c. Name and address of the person or funeral establishment to whom a human remains is released;
- d. Date and from whom the funeral director assumed custody, including the name of the institution or other place of death releasing a human remains;
- e. Date, time, and name of the licensed funeral director or registered intern completing embalming or other preparation for final disposition;
- f. Date, place and method of final disposition of a human remains.

900.11(2) Each funeral establishment will create and maintain the following records for a period of ten years:

- a. General price list required by the funeral rule, beginning on the most recent effective date;
- b. Each completed statement of goods and services required by the funeral rule, beginning on the date the statement is signed;
- c. Cremation records (see rule 481—900.10(156));
- d. Embalming records;
- e. Each preneed contract (pursuant to Iowa Code chapter 523A), beginning on the date of death.

900.11(3) The funeral records maintained by the funeral establishment as required in subrules 900.11(1) and 900.11(2) will be made available by the manager, funeral director or owner of the funeral establishment to:

- a. Any person or entity assuming a new ownership interest or any person newly assuming the position of manager, at least ten days prior to a change in ownership or manager, unless otherwise mutually agreed upon by the parties;
- b. Any licensed funeral director who practiced funeral directing while under the employment of, or while acting as an agent of, the funeral establishment; and
- c. The state registrar of vital statistics and the board.

900.11(4) In the event a funeral establishment ceases to do business, the owner or manager of the funeral establishment will identify the person or entity that will be responsible for records to be maintained by a funeral establishment as required in subrules 900.11(1) and 900.11(2). The funeral establishment will notify the board if funeral records are moved from the funeral establishment to another location and identify the person responsible for their safekeeping.

[**ARC 7812C**, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 147, 156, and 272C.

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¹ Effective date of 645—100.1(4)“a,” 100.1(5)“c,” 100.1(8)“a,” 100.6(135,144) and 100.7(135,144) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 13, 1995; delay lifted by this Committee May 9, 1995.

¹ February 5, 2020, effective date of **ARC 4849C** [100.9(6)] delayed until the adjournment of the 2020 session of the General Assembly by the Administrative Rules Review Committee at its meeting held January 10, 2020.

CHAPTER 901
LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND
CREMATION ESTABLISHMENTS

[Prior to 9/21/88, see Health Department[470] Ch 147]

[Prior to 7/10/02, see 645—100.9(156) and 645—100.10(156)]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 101]

481—901.1(156) Definitions. For purposes of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of mortuary science.

“*Change of ownership*” means a change of controlling interest ((1) an interest in a partnership of greater than 50 percent; or (2) greater than 50 percent of the issued and outstanding shares of a stock of a corporation) in a funeral establishment or cremation establishment.

“*Full time*” means a minimum of a 35-hour work week.

“*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 funeral director in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years following initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mortuary science to an applicant who is or has been licensed in another state.

“*Occupational Safety and Health Act*” means the Occupational Safety and Health Act of 1970, 29 U.S.C. §651 et seq.

“*Outer burial container*” means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—901.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice mortuary science to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of mortuary science to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in rule 481—506.31(272C) by which a licensee who has had a license suspended or revoked or who 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.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.2(156) Requirements for licensure.

901.2(1) The applicant will be eligible to apply for a license to practice mortuary science by the board pursuant to subrule 901.2(2) when the applicant has completed the educational requirements and examination requirements, followed by a completed internship as prescribed below, in the following alphabetical order:

a. Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average. The 60 college semester hours will not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

b. Examination requirements. The board will accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

c. Internship requirements as outlined in rule 481—901.3(147,156).

901.2(2) The applicant will complete an online application packet on the Iowa board of mortuary science website and pay the nonrefundable application fee.

a. If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application. Submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

b. An application that is not completed according to guidelines will not be reviewed by the board.

c. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

d. An application will not be considered until official copies of the academic transcripts have been directly transmitted from the college to the board office that demonstrate the applicant has completed a program at an approved college of mortuary science.

e. Licensees who were issued their initial licenses within six months prior to the renewal will not be required to renew their licenses until the renewal month two years later.

f. Incomplete applications that have been on file in the board office for more than two years will be:

(1) Considered invalid and will be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

901.2(3) Foreign-trained funeral directors will:

a. Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc. The professional curriculum must be equivalent to that stated in these rules. A candidate will bear the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

d. Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.3(147,156) Internship and preceptorship.

901.3(1) *Internship.*

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship will be indicated on the internship certificate. The intern will engage in the practice of mortuary science only during the time indicated on the internship certificate.

b. The intern will, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph 901.3(2) “i.”

c. No licensed funeral director will permit any person in the funeral director’s employ or under the funeral director’s supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of inspections, appeals, and licensing. The registration will be posted in a conspicuous place in the intern’s primary place of practice.

d. Registered interns will not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

e. The intern will, during the internship, complete the requirements outlined in subrule 901.3(3), including to embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and to submit reports on forms furnished by the department of inspections, appeals, and licensing. Work on the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

f. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of inspections, appeals, and licensing. These reports will be answered in full and signed by both the intern and preceptor.

g. When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

h. The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

i. The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed within 24 months will be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

- (1) Completion of a college course or continuing education course covering mortuary science laws and rules;
- (2) Additional case reports;
- (3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

j. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

k. The intern will complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form will be submitted before a funeral director license is issued to the intern.

l. The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

901.3(2) Preceptorship.

a. A preceptor must have completed a training course within five years prior to accepting an intern. This training course will cover Iowa law and rule content areas including, but not limited to, Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a preceptor training course detailed in paragraph 901.3(2)“a” will be eligible to be a preceptor.

c. The preceptor will be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

d. The preceptor will certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

e. A preceptor’s duties will include the following:

- (1) Ensure the intern completes the training program outlined in subrule 901.3(3);
- (2) Be physically present and supervise the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services;
- (3) Familiarize the intern in the areas specified by the preceptor training outline;
- (4) Read, add appropriate comments to, and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;
- (5) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and
- (6) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation will be submitted within two weeks of the end of the internship. The 12-month report will be submitted to the board for review and approval prior to the board’s approval of the intern for licensure.

f. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, will result in an investigation of the preceptor by the board and may result in actions which may include, but not be limited to, the loss of preceptor status for current and future interns or discipline or both.

g. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

h. No licensed funeral director or licensed funeral establishment will have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, with a maximum of two interns per funeral establishment.

i. With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

- (1) A single preceptor must act in the role of the primary preceptor.
- (2) The primary preceptor is responsible for coordinating all intern training and activities.
- (3) The intern will be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.

(4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher-volume practice or a broader range of intern experiences.

(5) Each preceptor will be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

901.3(3) Intern training requirements.

a. The board-approved preceptor will ensure that the intern is knowledgeable of each of the following items during the internship:

- (1) The requirements of the Federal Trade Commission Funeral Rule.
- (2) The requirements of the Occupational Safety and Health Act.
- (3) The requirements of the Americans with Disabilities Act.
- (4) The benefits of the Social Security and Veterans Health Administrations.

(5) The requirements of Iowa funeral law and forms (for example, preneed in Iowa Code chapter 523A, death certificates and Iowa burial transit permits in Iowa Code chapter 144, authorized person in Iowa Code chapter 144C, Iowa department of inspections, appeals, and licensing law and rules governing funeral practice, and the board's laws and rules).

b. The board-approved preceptor will ensure that the intern performs each of the following under the preceptor's direct supervision:

- (1) Assists with or performs a minimum of ten transfers of human remains.
- (2) Performs 25 embalmings of human remains to include:
 1. Obtaining permission to embalm.
 2. Placement of human remains on preparation table.
 3. Pre-embalming analysis.
 4. Primary disinfection.
 5. Setting features.
 6. Selection of injection/drainage sites and raising those vessels.
 7. Selection and mixing of embalming chemicals and operation of the embalming machine.
 8. Injection and drainage methods.
 9. Cavity treatment.
 10. Suturing techniques.
- (3) Prepares a minimum of ten human remains for viewing to include:
 1. Dressing.
 2. Cosmetizing.
 3. Casketing.
- (4) Assists with cremation procedures to include:
 1. Contacting the medical examiner.
 2. Completing required cremation forms.
 3. Preparing human remains for cremation.
- (5) Makes complete funeral arrangements with a minimum of ten families to include each of the following, as applicable:

1. Presentation of funeral goods, products and services.

2. Presentation of payment options for families.

3. Contacting third-party suppliers of goods and services, such as clergy, cemetery personnel, outer burial container provider, cremation establishment, florist, and musicians.

4. Completing the obituary.
5. Presentation of general price list and associated price lists.
6. Preparation and presentation of statement of funeral goods and services.
- (6) Coordinates, at a minimum, ten visitations to include:
 1. Preparing the chapel, visitation room or other facility.
 2. Setting up floral arrangements.
 3. Setting up register book and memorial folders or prayer cards.
- (7) Directs a minimum of 25 funerals or memorial services to include, as applicable:
 1. Greeting funeral attendees.
 2. Assisting casket bearers.
 3. Preparing for funeral procession.

4. Driving a vehicle in procession.
5. Assisting at graveside committal.
6. Transporting flowers.
7. Coordinating with officiant and family.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.4(156) Student practicum.

901.4(1) A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

901.4(2) Students serving a practicum in Iowa will be under the direct physical supervision of a funeral director who meets the following requirements:

- a. Has completed the Iowa preceptor training course within the immediately preceding five years.
- b. Has not had any formal disciplinary action within the past five years.
- c. Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.5(156) Funeral establishment license or cremation establishment license.

901.5(1) A place of business devoted to providing any aspect of mortuary science or cremation services will hold an establishment license issued by the board. An establishment license will not be issued more than 30 days prior to the opening of a new establishment.

a. A funeral establishment or a cremation establishment will not be operated until it has obtained a license from the board. Each establishment will timely renew the license in order to continue operations.

b. A funeral or cremation establishment will surrender its license to the board if the establishment fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2)“d.”

c. A funeral or cremation establishment license is not transferable or assignable.

d. A change in ownership will require the issuance of a new license. A change in ownership will be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer.

e. An establishment license will be issued for a specific physical location. A change in location or site of an establishment will require the submission of an application for a new license and payment of the fee required by 481—subrule 507.9(9). A new establishment license must be issued prior to the commencement of business in a new location.

f. A change in the name of an establishment will be reported to the board within 30 days. The establishment owner will pay the fee for reissuing the license.

g. A change in address or of the funeral director in responsible charge will be reported to the board within 30 days.

h. An establishment will have an employment or other relationship with one or more licensed funeral directors who will perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment will not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment will report to the board any change of the funeral director in responsible charge within 30 days of the change.

i. The board will not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees will ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

j. The establishment license will be displayed in a conspicuous place at the location of the establishment.

k. Failure to comply with any of these rules will constitute grounds for discipline pursuant to 481—Chapter 904 or civil penalties for unlicensed practice pursuant to 481—Chapter 905.

901.5(2) A funeral establishment or cremation establishment will be subject to applicable local, state and federal health and environmental requirements and will obtain all necessary licenses and permits from the agencies with jurisdiction.

901.5(3) License application. Complete an online application on the Iowa board of mortuary science website and pay the nonrefundable funeral or cremation application fee. If there is both a funeral establishment and a cremation establishment at the same location, two establishment license applications will be required, along with the payment of two establishment application fees. The application will contain all of the following:

- a. The name, mailing address and telephone number of the applicant.
- b. The physical location of the establishment.
- c. The mailing address, telephone number, fax number and email address of the establishment.
- d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.
- e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).
- f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.
- g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.
- h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will have responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment will be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.
- i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than \$500).
- j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I or action by the Federal Trade Commission.
- k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.6(156) Renewal of funeral director license.

901.6(1) The biennial license renewal period for a license to practice as a funeral director will begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month 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.

901.6(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 date two years later. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal, with 2 of the 24 hours covering current Iowa law and rules as identified in 481—paragraph 902.3(2) "f."

901.6(3) A licensee seeking renewal will:

- a. Meet the continuing education requirements of 481—902.2(272C). 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. Complete an online renewal application on the board of mortuary science website and pay the renewal fee before the license expiration date.

Persons licensed to practice funeral directing will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

901.6(4) Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

901.6(5) A person licensed to practice as a funeral director will keep the license certificate displayed in a conspicuous public place at the primary site of practice.

901.6(6) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 481—subrule 507.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

901.6(7) 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 funeral director in Iowa until the license is reactivated. A licensee who practices as a funeral director 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 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.7(272C) Renewal of a funeral establishment license or a cremation establishment license.

901.7(1) Renewal.

a. The renewal cycle will be triennial beginning July 1 and ending on June 30 of the third year.

b. The renewal will be to complete an online renewal application on the Iowa board of mortuary science website and pay the renewal fee.

901.7(2) Failure to receive notice from the board will not relieve the license holder of the obligation to pay triennial renewal fees on or before the renewal date.

901.7(3) Funeral and cremation establishments will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

901.7(4) Late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration will be charged.

901.7(5) When all requirements for license renewal are met, the licensee will be sent a license renewal card by email.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.8(272C) Inactive funeral establishment license or cremation establishment license.

901.8(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or cremation establishment license, complete an online reactivation application on the Iowa board of mortuary science website and pay the reactivation fee.

901.8(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and will not provide mortuary science services until the license is reactivated.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.9(17A,147,272C) Reinstatement of a funeral establishment license or a cremation establishment license. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—901.9(272C) prior to offering mortuary science services from that establishment in this state.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.10(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee will:

901.10(1) Complete an online reactivation application on the Iowa board of mortuary science website and pay the reactivation fee.

901.10(2) Provide verification of current competence to practice as a funeral director 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) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction in which the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 24 hours of continuing education that meets continuing education standards defined in rule 481—902.3(156,272C) within two years prior to filing the application for reactivation; and

(3) Verification of completion of two hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary

science, cremation, vital statistics, cemeteries and preneed. These 2 hours will be included as a part of the 24 hours required in subparagraph 901.11(3)“a”(2).

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 481—subrule 902.3(1) and 481—paragraphs 902.3(2)“a,”“b,” “c,” and “e,” within two years prior to filing the application for reactivation. Independent study identified in 481—paragraph 902.3(2)“f” will not exceed 24 hours of the 48 hours; and

(3) Verification of completion of a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

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481—901.11(17A,147,272C) Reinstatement of a funeral director license. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—901.11(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.12(156) Removal technician education and training requirements.

901.12(1) A removal technician will complete an in-person or live, real-time interactive media education training program that is approved by the board of mortuary science and provides education and training on the following:

- a. Requirements of the Federal Trade Commission Funeral Rule as defined in rule 481—900.1(156);
- b. Requirements of the Occupational Safety and Health Act relevant to the removal technician’s duties;
- c. Iowa laws and rules relevant to removal technicians; and
- d. Pertinent equipment.

901.12(2) It is the responsibility of the removal technician to maintain documentation of successful completion of the education training program described in subrule 901.12(1).

[ARC 7813C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—901.13(156) Removal technician supervision and requirements.

901.13(1) A removal technician will serve under the direct supervision of an Iowa licensed funeral director, will only perform removals at the direction of the supervising funeral director, and may act in place of a funeral director only in performing a removal.

901.13(2) Any Iowa-licensed funeral director who meets the following conditions is eligible to be a supervisor:

- a. Has been practicing for a minimum of five years;
- b. Has not had any formal disciplinary action within the past five years with the board of mortuary science; and
- c. Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

901.13(3) A removal technician seeking registration will complete an application on forms provided by the board and remit a fee in the amount of \$50 to the board. The application will include the applicant’s full name, date of birth, and home address; the name and license number of the removal technician’s supervising funeral director; and the name and address of the funeral establishment primarily employing the removal technician. A registration is effective for five years and may be renewed within 60 days of expiration. A removal technician will advise the board in writing of any change in supervisor or funeral establishment within 30 days.

901.13(4) The supervising funeral director will:

- a. Ensure the removal technician completes the education training program described in rule 481—901.12(156) and is registered as a removal technician with the board;
- b. Be physically present and directly supervise the removal technician’s first five removals;
- c. Ensure the removal technician performs its duties as outlined in subrule 901.13(2);
- d. Not supervise more than two removal technicians; and
- e. Not have more than four registered removal technicians employed by the same funeral establishment, or any funeral establishment owned, operated, or affiliated with that funeral establishment.

901.13(5) Removal technicians will:

- a. Be employed full- or part-time by the Iowa-licensed funeral establishment;
- b. Complete the requirements of rule 481—901.12(156) and have their first five removals completed in the physical presence of and directly supervised by their supervising Iowa licensed funeral director;
- c. Comply with subrule 900.4(1) on behalf of their supervising licensed funeral director, including providing their signature and registration number when removing a human remains from a hospital, nursing establishment, or any other institution involved with the care of the public.

901.13(6) Removal technicians will not:

- a. Advertise or hold themselves out as a funeral director or use the acronym “F.D.” or any other title or abbreviation indicating that the removal technician is a funeral director;
- b. Engage in any duties of a funeral director outside of performing a removal, including but not limited to the duties of a funeral director enumerated in 481—paragraphs 900.2(1) “b” through “f.”

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These rules are intended to implement Iowa Code chapters 17A, 147, 156 and 272C.

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◇ Two or more ARCs

¹ Effective date of 645—101.3(147,156), 101.98(3), 101.212(16) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 13, 1995; delay lifted by this Committee May 9, 1995.

CHAPTER 902
CONTINUING EDUCATION FOR FUNERAL DIRECTORS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 102]

481—902.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*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 mortuary science.

“*Continuing education*” means planned, organized learning acts that are 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 and that meet the standards set forth in these rules.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of continuing education.

“*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 these rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

[ARC 7814C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—902.2(272C) Continuing education requirements.

902.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on the fifteenth day of the licensee’s birth month and ending on the fifteenth day of the licensee’s birth month. Each biennium, a person who holds an active license will be required to complete a minimum of 24 hours of continuing education activity. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas, including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. A minimum of 12 hours of the 24 hours of continuing education required for renewal will be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.

902.2(2) Requirements of new licensees. Continuing education is not required in the first renewal period. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

902.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity as stipulated in rule.

902.2(4) No hours of continuing education will be carried over into the next biennium except as stated in subrule 902.2(2). 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.

902.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7814C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—902.3(156,272C) Standards.

902.3(1) General criteria. A continuing education activity must meet the following criteria:

a. Constitute an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertain to subject matters that integrally relate to the practice of the profession;

c. Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfill stated program goals, objectives, or both; and

e. Provide proof of attendance to licensees in attendance, including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

All licensees must retain the information identified in paragraph 902.3(1) “e” for two years after the biennium has ended.

902.3(2) *Specific criteria.*

a. The following categories of continuing education are accepted:

(1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

(2) Business management: accounting, funeral home and crematory management and merchandising, computer application, funeral directing, and small business management.

(3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns. Insurance will be related to life insurance and will not exceed 8 hours each biennium.

b. Academic coursework that meets the criteria set forth in the rule is accepted. Continuing education credit equivalents are as follows:

1 academic semester hour = 10 continuing education hours

1 academic trimester hour = 8 continuing education hours

1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

c. Attendance at or participation in a program or course that is offered or sponsored by a state or national funeral association that meets the criteria in subrule 902.3(1) and paragraph 902.3(2) “a” is accepted.

d. Independent study credits, including those obtained by television viewing, Internet, video- or sound-recorded programs, or correspondence work or by other similar means that meet the criteria in paragraph 902.3(2) “a,” must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. Continuing education credit obtained by independent study will not exceed 12 hours of the 24 hours required during the compliance period.

e. Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours will be granted only once per biennium for identical presentations.

f. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

[ARC 7814C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—902.4(272C) Automatic exemption. A licensee will be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or

3. Was absent from the state but engaged in active practice under circumstances that are approved by the board.

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CHAPTER 903

DISCIPLINARY PROCEEDINGS

[Prior to 7/10/02, see 645—101.7(272C) to 645—101.10(272C)]

Rescinded **ARC 7815C**, IAB 4/17/24, effective 5/22/24

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 103]

CHAPTER 904
DISCIPLINARY PROCEEDINGS
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 104]

481—904.1(156) Definitions.

“*Board*” means the board of mortuary science.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means an individual licensed pursuant to Iowa Code section 156.4 to practice as a funeral director in Iowa and a person issued an establishment license pursuant to Iowa Code section 156.14 to establish, conduct, or maintain a funeral establishment or cremation establishment in Iowa.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—904.2(17A,147,156,272C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 147, 156, and 272C and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals and establishments for the performance of mortuary science services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 147.55, 272C.3 to 272C.6 and 272C.10 and chapter 156.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—904.3(17A,147,156,272C) Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on Iowa Code section 156.9 and any of the following grounds:

904.3(1) Fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed when making application for a license in this state, or
- b. Attempting to file or filing with the board or the department of inspections, appeals, and licensing any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

904.3(2) Professional incompetency. Professional incompetency includes but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care that is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimal standards of acceptable and prevailing practice of a funeral director in this state.

904.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes but is not limited to an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.
- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business records through false or deceptive representations or omissions.
- e. Submission of false or misleading reports or information to the board, including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.
- f. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.
- g. Representing oneself as a funeral director when one’s license has been suspended, revoked, or surrendered, or when one’s license is on inactive status.
- h. Permitting another person to use the licensee’s license for any purposes.
- i. Misrepresenting the legal need or other requirement for embalming.
- j. Fraud in representations as to skill or ability.

904.3(4) Unethical, harmful or detrimental conduct. Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct that are unethical, harmful or detrimental to the public may include but are not limited to the following actions:

- a. Practice outside the scope of the profession that requires licensure by a different professional licensing board.
- b. Any violation of Iowa Code chapter 144.
- c. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of mortuary science or such behavior otherwise provides a reasonable basis for the board to conclude that such behavior would place the public at risk within the practice of mortuary science.
- d. Betrayal of a professional confidence.
- e. Engaging in a professional conflict of interest.
- f. Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- g. Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 144C.5. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.
- h. Failure to keep and maintain records as required by Iowa Code chapter 156 and associated rules.

904.3(5) Unlicensed practice.

- a. Practicing mortuary science when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.
- b. Practicing mortuary science within an unlicensed funeral or cremation establishment.
- c. Permitting an unlicensed employee or other person under the licensee's control or supervision to perform activities requiring a license.
- d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science, or aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is grounds for discipline under this rule or is an unlawful act by a nonlicensee under Iowa Code section 156.16.

904.3(6) Lack of proper qualifications.

- a. Continuing to practice as a funeral director without satisfying the continuing education mandated by 481—Chapter 902.
- b. Acting as a preceptor or continuing education provider without proper board approval or qualification.
- c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the licensee's ability to practice in a safe and competent manner.
- d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b."

904.3(7) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes:

- a. A failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results.
- b. Any conduct, practice or condition which impairs a licensee's ability to safely and skillfully practice the profession.

904.3(8) Professional misconduct.

- a. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.
- b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of mortuary science, including but not limited to Iowa Code chapters 272C, 144, 147, 156, 523A, 523I, 566, and 566A; board rules, including rules of professional conduct set forth in 481—Chapter 900; and regulations promulgated by the Federal Trade Commission relating to funeral services or merchandise, or funeral or cremation establishments, as applicable to the profession. Any violation involving deception, dishonesty or moral turpitude shall be deemed related to the practice of mortuary science.
- c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a licensee disciplinary investigation or investigation against a nonlicensee, including failure to comply

with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the board office.

d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

904.3(9) Willful or repeated violations. The willful or repeated violation of any provision of Iowa Code chapter 147, 156, or 272C.

904.3(10) Failure to report.

a. Failure by a licensee or an applicant for licensure to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action.

b. Failure of a licensee or an applicant for licensure to report, within 30 days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action.

c. Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

d. Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

e. Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

f. Failure to report a change of name or address within 30 days after it occurs.

904.3(11) Failure to comply with board order.

a. Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

b. Failure to pay costs assessed in any disciplinary action.

904.3(12) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

904.3(13) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

904.3(14) Failure to comply with conditions of Iowa Code sections 142C.10 and 142C.10A.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—904.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments. The board may initiate disciplinary action against a funeral establishment or cremation establishment, at time of license application or thereafter, based on all grounds set forth in Iowa Code section 156.15, summarized as follows:

904.4(1) The licensee or applicant has been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, the managing officer or owner has been convicted of such a crime under the laws of this state, another state, or the United States.

904.4(2) The licensee or applicant, or any owner or employee of the establishment has violated Iowa Code chapter 156, rule 481—904.3(17A,147,156,272C), or any other rule promulgated by the board.

904.4(3) The licensee or applicant knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.

904.4(4) The licensee or applicant failed to engage in or ceased to engage in the business described in the application for licensure.

904.4(5) The licensee or applicant failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.

904.4(6) The licensee or owner of the establishment has violated the smokefree air Act, Iowa Code chapter 142D.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—904.5(17A,147,156,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revoke a license.
2. Suspend a license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Place a licensee on probation and impose such conditions as the board may reasonably impose, including but not limited to requiring periodic reporting to the board designated features of the licensee's practice of mortuary science.
5. Require additional education or training. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1,000 against an individual licensed as a funeral director, or not to exceed \$10,000 against a licensed funeral establishment or cremation establishment. Civil penalties may be imposed for any of the disciplinary violations specified in rules 481—904.3(17A,147,156,272C) and 481—904.4(17A,147,156,272C), as applicable.
9. Issue a citation and warning, or reprimand.
10. Refuse to issue or renew a license.
11. Such other sanctions allowed by law as may be appropriate.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—904.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions. Factors the board will consider when determining the nature and severity of the disciplinary sanction to be imposed, including whether to assess and the amount of civil penalties, include:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state.
2. Whether the amount of a civil penalty will be a substantial deterrent to the violation.
3. The circumstances leading to the violation.
4. The risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time lapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issues involved.
11. Whether the violation was willful and intentional.
12. Whether the nonlicensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether a licensee holding an inactive, suspended, restricted or revoked license engaged in practices which require licensure.
15. Any extenuating factors or other countervailing considerations.
16. Number and seriousness of prior violations or complaints.
17. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—904.7 Reserved.

481—904.8(17A,147,156,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the

board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board or staff member, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges shall be filed simultaneously with the consent order.

[ARC 7815C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 156, and 272C.

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[Filed ARC 7815C (Notice ARC 7526C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

[Editorial change: IAC Supplement 9/18/24]

CHAPTER 905
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 105]

481—905.1(156) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 156.16. In addition to the procedures set forth in Iowa Code section 156.16, this chapter will apply.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.2(156) Unlawful practices. Practices by unlicensed persons or establishments that are subject to civil penalties include but are not limited to:

1. Acts or practices by unlicensed persons that require licensure as a funeral director under Iowa Code chapter 156.
2. Acts or practices by unlicensed establishments that require licensure as a funeral establishment or cremation establishment under Iowa Code chapter 156.
3. Use of the words “funeral director,” “mortician,” or other title in a manner that states or implies that the person is engaged in the practice of mortuary science as defined in Iowa Code chapter 156.
4. Use or attempted use of a licensee’s certificate or an expired, suspended, revoked, or nonexistent certificate.
5. Falsely impersonating a licensed funeral director.
6. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
7. Other violations of Iowa Code chapter 156.
8. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.3(156) Investigations. The board is authorized by Iowa Code sections 17A.13(1) and 156.16 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations will conform to the procedures outlined in this chapter. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.4(156) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, that the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in rule 481—503.5(17A,272C).

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.5(156) Notice of intent to impose civil penalties. The notice of the board’s intent to issue an order to require compliance with Iowa Code chapter 156 and to impose a civil penalty will be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 156.
5. Notice of the nonlicensee’s right to a hearing and the time frame in which hearing must be requested.
6. The address to which written request for hearing must be made.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.6(156) Requests for hearings.

905.6(1) Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

905.6(2) If a request for hearing is not timely made, the board chairperson or the chairperson's designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 156, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

905.6(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a contested case hearing in the same manner as applicable to disciplinary cases against licensees.

905.6(4) A nonlicensed person who fails to timely request a contested case hearing will have failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

905.6(5) A nonlicensed person who is aggrieved or adversely affected by the board's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

905.6(6) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 156 at any stage of the proceeding upon mutual consent of the board.

905.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 481—506.30(272C). Hearings will be open to the public.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.7(156) Factors to consider. The board may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the nonlicensee acted in bad faith.
14. Whether the nonlicensee cooperated with the board.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—905.8(156) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code section 156.16.

[ARC 7816C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, and 156.

[Filed ARC 7816C (Notice ARC 7534C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]

[Editorial change: IAC Supplement 9/18/24]

CHAPTER 906
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 106]

481—906.1(17A,272C) Board of mortuary science adoption of uniform and model rules. The board hereby adopts by reference the following:

906.1(1) to **906.1(9)** Reserved.

906.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

[Filed ARC 8148C (Notice ARC 7296C, IAB 1/24/24), IAB 7/24/24, effective 8/28/24]

[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 907 to 920
Reserved

BOARD OF DIETETICS

CHAPTER 921

LICENSURE OF DIETITIANS

[Prior to 6/26/02, see 645—Ch 80]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 81]

481—921.1(152A) Definitions.

“Active license” means a license that is current and has not expired.

“Board” means the board of dietetics.

“Consultation” means the practice of providing professional advice to another dietitian or other professional in a particular case and for a limited time, in affiliation with, and at the request of, a dietitian licensed in this state.

“Dietetics” means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and from behavioral and social sciences to achieve and maintain an individual’s health.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“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 dietitian in the state of Iowa.

“License expiration date” means the fifteenth day of the birth month every two years following initial licensure.

“Nutrition assessment” means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.

“Nutrition counseling” means advising and assisting individuals or groups, with consideration of cultural background and socioeconomic status, about appropriate nutritional intake by integrating information from the nutrition assessment with information about food and other sources of nutrients and meal preparation.

“Reactivate” or *“reactivation”* means the process as outlined in rule 481—91.8(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of dietetics to license persons who have the same or similar qualifications as those required in Iowa.

“Registered dietitian” means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of the National Commission for Certifying Agencies.

“Reinstatement” means the process as outlined in rule 481—506.31(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.

“Supervision of nonlicensees” means any of the following: delegation of duties, direct oversight, or indirect oversight of employees or other persons not licensed by the board.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.2(152A) Nutrition care. The primary function of dietetic practice is the provision of nutrition care services that include:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling concerning health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.3(152A) Requirements for licensure. The following criteria apply to licensure:

921.3(1) The applicant submits a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 481—507.6(147,152A).

921.3(2) No application will be considered by the board until the applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR). The board

will accept the passing score set by the CDR. Verification of satisfactory completion may be established by one of the following:

- a. The applicant sends to the board a copy of the CDR registration card;
- b. The CDR sends an official letter directly to the board to verify that the applicant holds registration status; or
- c. The CDR posts web-based verification that the applicant holds registration status.

921.3(3) A license is not required for dietitians who are in this state for the purpose of consultation, in accordance with rule 481—921.1(152A), when they are licensed in another state, U.S. territory, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university.

921.3(4) Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.4(152A) Educational qualifications.

921.4(1) The applicant shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of study, that meets minimum academic requirements as established by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) and is approved by the board.

921.4(2) A foreign-trained dietitian shall:

- a. Provide an official letter sent directly from the Commission on Dietetic Registration (CDR) to the board to verify that the applicant has met the minimum academic and didactic program requirements of the CDR. Foreign degree equivalency evaluation requirements of the ACEND of the AND are listed on the ACEND website, and
- b. Provide evidence of meeting all other requirements in these rules.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.5(152A) Supervised experience. The applicant shall complete an accredited competency-based supervised experience program approved by the ACEND of the AND.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.6(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction may 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:

921.6(1) Meets the requirements of rule 481—921.4(152A).

921.6(2) 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.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.7(152A) License renewal.

921.7(1) The biennial license renewal period begins on the sixteenth day of the licensee's birth month and ends on the fifteenth day of the licensee's birth month two years later. The licensee is responsible for renewing the license prior to its expiration.

921.7(2) An initial license issued by the board may be valid for an 18- to 29-month period. When an initial license is renewed, it will be placed on a two-year renewal period identified in subrule 921.9(1).

921.7(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 481—922.2(152A) and the mandatory reporting requirements of subrule 921.9(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.

921.7(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 and dependent adults in Iowa will complete the applicable department of health and human services training relating to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b."

b. Written documentation of training completion should be maintained for three years.

c. The requirement for mandatory training for identifying and reporting child and dependent adult abuse is 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 rule 481—500.14(272C).

d. The board may select licensees for audit of compliance with the requirements in paragraphs 921.9(4) "a" and "b."

921.7(5) Upon receiving the information required by this rule and the required fee, a two-year license will be administratively issued. In the event the board receives adverse information on the renewal application, the renewal license will be issued but the board may refer the adverse information for further consideration or disciplinary investigation.

921.7(6) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

921.7(7) Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in 481—subrule 507.6(3). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

921.7(8) Inactive license. A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian 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.

921.7(9) Renewal of a reactivated license. A licensee who reactivates the license in accordance with rule 481—921.8(17A,147,272C) will not be required to renew the license until the next renewal two years later if the license is reactivated within six months prior to the license renewal date.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

921.8(1) Submit a reactivation application and pay the reactivation fee as specified in 481—Chapter 507.

921.8(2) Provide verification of current competence to practice dietetics 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.

(2) Verification of completion of 30 hours of continuing education within two years of the 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.

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.9(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—921.8(17A,147,272C) prior to practicing dietetics in this state.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—921.10(152A,272C) Telehealth visits. A licensee may provide dietetic services to an individual or a group utilizing a telehealth visit if the dietetic services are provided in accordance with all the requirements of this chapter.

921.10(1) “Telehealth visit” means the provision of dietetic services by a licensee to an individual or a group using technology where the licensee and the individual or group are not at the same physical location for the therapy session.

921.10(2) A licensee engaged in a telehealth visit will utilize technology that is secure and, pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub.L. 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of March 22, 2024, HIPAA-compliant and that includes, at a minimum, audio or video equipment or both that allows two-way real-time interactive communication between the licensee and the individual or group. A licensee may use non-real-time technologies to prepare for a session or to communicate with an individual or a group between sessions.

921.10(3) A licensee engaged in a telehealth visit will be held to the same standard of care as a licensee who provides in-person dietetic services. A licensee will not utilize a telehealth visit if the standard of care for the particular services cannot be met by using technology.

921.10(4) Any licensee who provides a telehealth visit to an individual or a group located in Iowa shall be licensed in Iowa.

921.10(5) Prior to the first telehealth visit, a licensee is to obtain informed consent from the individual or group specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the individual or group of the following:

- a. The risks and limitations of the use of technology to provide dietetics services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

921.10(6) A licensee will identify in the clinical record when dietetic services are provided utilizing a telehealth visit.

[ARC 7925C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 17A, 147, 152A, and 272C.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 922
CONTINUING EDUCATION FOR DIETITIANS

[Prior to 6/26/02, see 645—Ch 81]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 82]

481—922.1(152A) Definitions.

“*Active license*” means the license 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 dietetics.

“*Continuing education*” means planned, organized learning acts acquired during licensure 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 approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*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 a dietitian in the state of Iowa.

“*Webinar*” means a web-based seminar, presentation, lecture, or workshop that is transmitted over the web.

[ARC 7926C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—922.2(152A) Continuing education requirements.

922.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on the sixteenth day of the licensee’s birth month and ending on the fifteenth day of the birth month two years later. Each biennium, each person who is licensed to practice as a dietitian in this state will be required to complete a minimum of 30 hours of continuing education approved by the board.

922.2(2) Requirements for 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 any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

922.2(3) Hours of continuing education credit may be obtained in accordance with the definitions and standards in these rules.

922.2(4) No hours of continuing education will be carried over into the next biennium except as stated for the 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.

922.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 7926C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/18/24]

481—922.3(152A,272C) Standards.

922.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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 the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

922.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by completing programs/activities that reflect the educational needs of the dietitian and the nutritional needs of the consumer. Continuing education programs/activities that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth will be accepted for continuing education.

b. The licensee may engage in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification.

c. The licensee may engage in programs/activities via webinars and independent study in accordance with the definitions and standards in these rules.

d. The licensee may submit completed training to comply with mandatory reporter training requirements as specified in 481—921.9(4). Hours reported for credit will not exceed the hours required to maintain compliance with required training.

e. The following areas are appropriate for continuing education credit:

(1) Sciences related to dietetic practice, education, or research including biological sciences, food and resource management, and behavioral and social sciences to achieve and maintain people's health.

(2) Dietetic practice related to assessment, counseling, teaching, or care of clients in any setting.

(3) Management or quality assurance of nutritional care delivery systems.

(4) Dietetic practice related to community health needs.

f. Criteria for hours of credit are as follows:

(1) Academic coursework. Coursework for credit must be completed at a regionally accredited U.S. college or university. In order for the licensee to receive continuing education credit, the coursework must be beyond entry-level dietetics.

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(2) Scholarly publications. Publication may be approved if submitted in published form in the continuing education documentation file of the licensee. All publications must appear in refereed professional journals. Material related to work responsibilities, such as diet and staff manuals, and publications for the lay public are unacceptable. Continuing education credit hours may be reported using the following guidelines:

1. Senior author: first of two or more authors listed.

2. Coauthor: second of two authors listed.

3. Contributing author: all but senior of the three or more authors.

4. Research papers:

- Single author 10 hours
- Senior author 8 hours
- Coauthor 5 hours
- Contributing author 3 hours

5. Technical articles:

- Single author 5 hours
- Senior author 4 hours
- Coauthor 3 hours
- Contributing author 2 hours

6. Information-sharing articles: 1 hour

7. Abstracts:

- Senior author 2 hours
- Coauthor 1 hour

(3) Poster sessions. Continuing education credit may be obtained for attending juried poster sessions at national meetings that meet the criteria for appropriate subject matter as required in these rules. One hour of continuing education credit is allowed for each 12 posters reviewed not to exceed six hours in a continuing education biennium.

(4) Presenters. Presenters may receive continuing education credit. Presentations to the lay public will not receive credit for continuing education. For each 50-minute hour of presentation, two hours of credit for continuing education

will be earned. Presenters of poster sessions at national professional meetings will receive a maximum of two hours of credit per topic. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

(5) Staff development training. Staff development training that meets the criteria in this subrule will be credited on the basis of the defined hour of continuing education stated in these rules.

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These rules are intended to implement Iowa Code section 272C.2 and chapter 152A.

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CHAPTER 923
DISCIPLINE FOR DIETITIANS

[Prior to 9/19/01, see 645—80.100(152A,272C)]

[Prior to 6/26/02, see 645—Ch 82]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 83]

481—923.1(152A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

Failure to comply with the Academy of Nutrition and Dietetics/Commission on Dietetic Registration, Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues, effective January 1, 2010, hereby adopted by reference. Copies may be obtained from the Academy of Nutrition and Dietetics/Commission on Dietetic Registration website at www.eatright.org/code-of-ethics-for-rdns-and-ndtrs.

This rule is intended to implement Iowa Code chapters 147, 152A and 272C.

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¹ March 28, 2012, effective date of 83.2(12) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 924
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 84]

481—924.1(17A,272C) Board of dietetics adoption of uniform and model rules. The board hereby adopts by reference the following:

924.1(1) to **924.1(9)** Reserved.

924.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 925 to 939
Reserved

BOARD OF BARBERING AND COSMETOLOGY ARTS AND SCIENCES

CHAPTER 940

LICENSURE OF BARBERS AND COSMETOLOGISTS, ELECTROLOGISTS,
ESTHETICIANS, NAIL TECHNOLOGISTS, AND INSTRUCTORS OF BARBERING
AND COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Chs 149, 150]
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 60]

481—940.1(157) Definitions. In addition to the definitions included in Iowa Code sections 157.1 and 84D.2 and 29 Code of Federal Regulations (CFR) §29.5 as amended on December 19, 2016, the following definitions apply to terms used in this chapter:

“*Active license*” means a license that is current and has not expired.

“*Core curriculum*” means the basic core life sciences curriculum that is required for completion of any course of study of barbering and cosmetology arts and sciences except for manicuring.

“*Examination*” means any of the tests used to determine minimum competency prior to the issuance of a barbering and cosmetology arts and sciences license.

“*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.

“*Legacy curriculum*” means a course of study and curriculum offered by barbering schools or cosmetology arts and sciences schools that, as applicable, comply with the administrative rules issued by the Iowa board of barbering or by the Iowa board of cosmetology arts and sciences that were in effect on June 30, 2023.

“*Licensee*” means any person or entity licensed to perform practice disciplines governed by the board of barbering and cosmetology arts and sciences pursuant to Iowa Code chapter 157 and 481—Chapters 940 through 946.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice barbering and cosmetology arts and sciences to an applicant who is or has been licensed in the District of Columbia or in another state, territory, province or foreign country and who has held an active license under the laws of such other jurisdiction for at least 12 months during the past 24 months.

“*Mentor*” means a licensee providing guidance in a mentoring program.

“*Mentoring*” means a program allowing students to experience barbering and cosmetology arts and sciences in a licensed establishment under the guidance of a mentor.

“*NIC*” means the National-Interstate Council of State Boards of Cosmetology, Inc.

“*Pedicuring*” means the practice of cleaning, shaping or polishing the toenails.

“*Practice discipline*” means the practice of electrology, esthetics, nail technology, or barbering and cosmetology as recognized by the board of barbering and cosmetology arts and sciences.

“*Prescribed practice*” means an area of specialty certified by the board within the scope of barbering and cosmetology arts and sciences.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—940.9(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(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.

“*Shaving*” means the manual removal of hair from the face, head or neck by cutting it close to the skin.

“*Testing service*” means a national testing service selected by the board.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.2(157) Initial licensure.

940.2(1) Requirements for licensure. All persons providing services in one or more practice disciplines shall hold a license issued by the board. The applicant shall:

a. Submit a completed online application and pay the nonrefundable fee specified in 481—subrule 507.5(1).

b. Demonstrate professional competence in one of the following ways:

(1) A person who is licensed in another jurisdiction may complete the licensure by endorsement application. If the applicant is licensed in another jurisdiction as an electrologist, nail technologist or esthetician, then a successful applicant will receive a license in such practice discipline. If the applicant is licensed in another jurisdiction as a barber or as a cosmetologist, and the applicant is requesting licensure in the practice discipline of barbering and

cosmetology, then a successful applicant will receive a license as a barber and cosmetologist. All applicants must provide a verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction 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.

(2) A person who is licensed in another jurisdiction who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

c. Provide proof of completion of education.

(1) If the applicant graduated from a school that is licensed by the board, the applicant is to direct the educational program to submit to the board a diploma or an official transcript indicating date of graduation and completion of required hours in each practice discipline for which the applicant is requesting licensure.

If an applicant graduates from a licensed school after completing a course of study constituting a legacy curriculum as prescribed in 481—subrule 941.14(6), such graduation will satisfy the education requirement for the applicable practice discipline for which the applicant is requesting licensure. For purposes of this subrule, a legacy curriculum in barbering or a legacy curriculum in cosmetology will be sufficient proof of education for an applicant requesting a license to practice barbering and cosmetology.

(2) If the applicant graduated from a school that is not licensed by the board, the applicant is to direct the school to provide an official transcript showing completion of a course of study that meets the requirements of rule 481—941.14(157).

(3) If the applicant has graduated from an apprenticeship program, the applicant must direct the Iowa office of apprenticeship registered apprenticeship program to submit a certificate of completion.

(4) If the applicant was educated outside the United States, the applicant is to attach an original evaluation of the applicant's education from any accredited evaluation service.

940.2(2) Requirements for an instructor's license. An applicant for an instructor's license shall:

- a. Submit a completed application for licensure and the appropriate fee to the board;
- b. Be licensed in the state of Iowa in the prescribed practice discipline to be taught or be licensed as a barber and cosmetologist who possesses the skill and knowledge required to instruct in that practice discipline;
- c. Provide documentation of completion of 1,000 hours of instructor's training or two years' active practice in the field of barbering and cosmetology, esthetics, electrology, or nail technology within six years prior to application;
- d. For an instructor of electrology license, submit proof of 60 hours of practical experience, excluding school hours, in the area of electrolysis prior to application;
- e. Pass an instructor's national examination, which, effective January 1, 2008, shall be the NIC instructor examination unless the applicant is applying for an instructor's license by endorsement as outlined in paragraph 60.2(1) "b."

940.2(3) Conditions. The following conditions apply for all licenses:

- a. Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.
- b. Licensees who were issued their initial licenses within six months prior to the license renewal beginning date are not required to renew their licenses until the renewal month two years later.
- c. The board may issue a single license number and expiration date to licensees who hold licenses in multiple practice disciplines.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.3(157) Examination requirements.

940.3(1) An applicant shall pass a national examination prescribed by the board for the particular practice discipline with a score of 75 percent or greater.

The applicant shall submit the test registration fee directly to the test service. NIC examinations are administered according to guidelines set forth by the NIC.

940.3(2) If applying for licensure by endorsement, an applicant who graduated from a barber or cosmetology school prior to January 1, 2000, shall have passed the state written and practical examination required by the state in which the applicant was originally licensed.

940.3(3) An applicant who graduated from a barber or cosmetology school after January 1, 2000, shall have passed a national theory examination for the discipline in which the applicant seeks licensure.

940.3(4) An applicant for the barbering and cosmetology license who graduated from a barber or cosmetology school after July 1, 2023, shall have passed a national theory examination. Shaving with a razor requires additional certification by the board.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.4(157) Criteria for licensure in prescribed practice disciplines.

940.4(1) A barbering and cosmetology license is not a requirement for an electrology, esthetics, or nail technology license.

940.4(2) Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline.

940.4(3) Theory hours earned in each practice discipline of barbering and cosmetology arts and sciences may be used in applying for a barbering and cosmetology license.

940.4(4) A barber and cosmetologist licensed after July 1, 2005, is not eligible to be certified in chemical peels, microdermabrasion, laser or intense pulsed light (IPL) and shall not provide those services.

940.4(5) Licensees must hold a shaving certificate, or the license will be restricted from the practice of shaving. An individual who was licensed as an Iowa barber prior to July 1, 2023, is not required to hold a shaving certificate.

940.4(6) Pedicuring shall only be done by a licensee who possesses the skill and knowledge required to perform the service in a professionally competent manner in compliance with 481—Chapter 943.

940.4(7) Waxing shall only be done by a licensee who possesses the skill and knowledge required to perform the service in a professionally competent manner in compliance with 481—Chapter 943.

940.4(8) An initial license to practice manicuring shall not be issued by the board after December 31, 2007. A manicurist license issued on or before December 31, 2007, may be renewed subject to licensure requirements identified by statute and administrative rule unless the license becomes inactive. A manicurist license that becomes inactive cannot be reactivated or renewed.

940.4(9) Any person previously licensed as a barber prior to July 1, 2024, pursuant to 645—Chapter 21 will, upon successful renewal of such license, receive a barbering and cosmetology license.

940.4(10) Any person previously licensed as a cosmetologist prior to July 1, 2024, pursuant to this chapter will, upon successful renewal of such license, receive a barbering and cosmetology license.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.5(157) Prescribed practice training requirements. As outlined below, the board may approve a licensee to provide the prescribed practice services of shaving, microdermabrasion, chemical exfoliation, laser services, and IPL hair removal treatments once a licensee has complied with training requirements and submitted a completed application, the required supporting evidence, and applicable fees as specified in these rules. The applicant shall receive a certification following board approval. Machine-, product-, model- or device-specific certifications do not need renewal.

940.5(1) Shaving for hair removal.

a. Shaving shall only be performed by a barber and cosmetologist who is certified by the board to perform those services. A barber licensed before July 1, 2023, is exempt from this requirement.

b. Shaving shall only be used for hair removal on the scalp, face or neck.

c. In order to receive board certification and be eligible to perform shaving for hair removal services, the licensee must complete a shaving program or pass an exam as outlined below:

(1) Provide evidence of passing the NIC barber practical exam or a national barber practical exam, or

(2) Complete a 40-hour shaving program from an Iowa licensed school, or a program sponsored by an Iowa licensed school, that is conducted by a licensed instructor who has specialized education, training and experience by reason of which said licensed instructor should be considered qualified concerning the subject matter of the program, then:

1. Obtain from the program a certification of training that contains the following information:

- Date, location, and course title;
- Name and license number of the instructor;
- Name and license number of the school;

- Number of contact hours;
- Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of skin care, blood-borne pathogens and infection control.

2. Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 481—subrule 507.5(14). The fee is nonrefundable.

940.5(2) Microdermabrasion.

a. Microdermabrasion shall only be performed by a licensed, certified esthetician or a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board.

b. To be eligible to perform microdermabrasion services, the licensee shall:

(1) Complete 14 contact hours of education specific to the material or apparatus used for microdermabrasion. Before an additional material or apparatus is utilized in the licensee's practice, the licensee shall provide official certification of training on the material or apparatus.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours;
3. Specific identifying description of the microdermabrasion machine covered by the course; and
4. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of potential hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 481—subrule 507.5(14). The fee is nonrefundable.

940.5(3) Chemical exfoliation.

a. Chemical exfoliation shall only be performed by a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board to perform those services. Additional certification is not required for licensed estheticians.

b. Chemical exfoliation procedures are limited to the removal of surface epidermal cells of the skin by using only non-medical-strength cosmetic preparations consistent with labeled instructions and as specified by these rules. This procedure is not intended to elicit viable epidermal or dermal wounding, injury, or destruction.

c. To be eligible to perform chemical peels, a cosmetologist who was licensed prior to July 1, 2005, shall:

(1) Complete 21 hours of training specific to the process and products to be used for chemical peels. Before an additional process or product is utilized in the licensee's practice, the licensee shall provide official certification of training on the new process or product.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours;
3. Specific identifying description of the chemical peel process and products covered by the course; and
4. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of potential hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 481—subrule 507.5(15). The fee is nonrefundable.

940.5(4) Laser services.

a. A cosmetologist licensed after July 1, 2005, shall not use laser products.

b. An electrologist shall only provide hair removal services when using a laser.

c. Estheticians and cosmetologists shall use a laser for cosmetic purposes only.

d. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform laser services.

e. When a laser service is provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

f. To be eligible to perform laser services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each laser machine, model or device to be used for laser services. Before an additional machine, model or device is utilized in the licensee's practice, the licensee shall submit official certification of training on the new machine, model or device.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours specific to the laser machine, model or device;
3. Name of the approved manufacturer or institute of laser technology that provided the training;
4. Specific identifying description of the laser equipment; and
5. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 481—subrule 507.5(14). The fee is nonrefundable.

940.5(5) IPL hair removal treatments.

- a. A cosmetologist licensed after July 1, 2005, shall not use IPL devices.
- b. An IPL device shall only be used for hair removal.
- c. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform IPL services.

d. When IPL hair removal services are provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

e. To be eligible to perform IPL hair removal services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each IPL machine, model or device to be used for IPL hair removal services. Before an additional machine, model or device is utilized in the licensee's practice, the licensee shall submit official certification of training on the new machine, model or device.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours specific to the laser machine, model or device;
3. Name of the approved manufacturer or institute of laser technology that provided the training;
4. Specific identifying description of the IPL hair removal equipment; and
5. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 481—subrule 507.5(14). The fee is nonrefundable.

940.5(6) Health history and incident reporting.

a. Prior to providing laser or IPL hair removal, microdermabrasion or chemical peel services, the cosmetologist, esthetician, and electrologist shall complete a client health history of conditions related to the application for services and include it with the client's records. The history shall include but is not limited to items listed in paragraph 60.5(6) "b."

b. A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, IPL device, chemical peel, or microdermabrasion shall submit a report to the board within 30 days of any incident in which provision of such services resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board. The report shall include the following:

- (1) A description of procedures;
- (2) A description of the physical condition of the client;
- (3) A description of any adverse occurrence, including:
 1. Symptoms of any complications including, but not limited to, onset and type of symptoms;
 2. A description of the services provided that caused the adverse occurrence;
 3. A description of the procedure that was followed by the licensee;
- (4) A description of the client's condition on termination of any procedures undertaken;
- (5) If a client is referred to a physician, a statement providing the physician's name and office location, if known;

(6) A copy of the consent form.

940.5(7) Failure to report. Failure to comply with paragraph 60.5(6) “b” when the adverse occurrence is related to the use of any procedure or device noted in the attestation may result in the licensee’s loss of authorization to administer the procedure or device noted in the attestation or may result in other sanctions provided by law.

940.5(8) A licensee shall not provide any services that constitute the practice of medicine.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.6(157) Licensure restrictions relating to practice.

940.6(1) A certified laser product or an intense pulsed light device shall only be used on surface epidermal layers of the skin except for hair removal.

940.6(2) A laser hair removal product or an intense pulsed light device shall not be used on a minor unless the minor is accompanied by a parent or guardian and then shall be used only under general supervision of a physician.

940.6(3) Persons licensed under Iowa Code chapter 157 shall not administer any practice of removing skin by means of a razor-edged instrument.

940.6(4) Persons licensed under this chapter who provide hair removal, manicuring and nail technology services shall not administer any procedure in which human tissue is cut, shaped, vaporized, or otherwise structurally altered, except for the use of a cuticle nipper.

940.6(5) Board-certified licensees providing shaving, microdermabrasion, chemical peels, laser or IPL hair removal treatments in an establishment shall not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic medicine, chiropractic or acupuncture.

940.6(6) Barbers and cosmetologists licensed prior to July 1, 2005, and licensed estheticians shall only perform medical aesthetic services in a medical spa under the delegation and supervision of a medical director as set forth by the Iowa board of medicine in rule 653—13.8(148,272C). The Iowa board of barbering and cosmetology arts and sciences does not license medical aestheticians.

940.6(7) Persons licensed under this chapter who provide apprenticeship programs must hold an active license sufficient to provide on-the-job training, must operate in an actively licensed establishment, and must comply with relevant Iowa office of apprenticeship laws and regulations for the operation of an apprenticeship program.

940.6(8) Licensees may only perform those services for which they possess the skill and knowledge required to perform the service in a professionally competent manner as set forth in Iowa Code chapter 157 and the related administrative rules and regulations.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.7(157) Consent form requirements. A licensed esthetician, barber and cosmetologist, or electrologist, prior to providing services relating to a certified laser product, intense pulsed light device, chemical peel, or microdermabrasion, shall obtain from a client a consent form that:

1. Specifies in general terms the nature and purpose of the procedure(s);
2. Lists known risks associated with the procedure(s) if reasonably determinable;
3. States an acknowledgment that disclosure of information has been made and that questions asked about the procedure(s) have been satisfactorily answered;
4. Includes a signature of either the client for whom the procedure is performed or, if that client for any reason lacks legal capacity to consent, includes the signature of a person who has legal authority to consent on behalf of that client in those circumstances.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.8(157) License renewal.

940.8(1) The biennial license renewal period for a license to practice cosmetology arts and sciences shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis.

a. The board may send a renewal notice by regular mail to each licensee at the address on record prior to the expiration of the license.

b. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

c. A new or reactivated license granted by the board to a licensee who holds a current license in another practice discipline in barbering and cosmetology arts and sciences may have the same license expiration date as the licensee’s other license(s). If the licensee does not have another active license with the board, the license expiration date shall be in the current renewal period unless the license is issued within six months of the end of the renewal cycle and subrule 940.8(2) applies.

940.8(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.

940.8(3) License renewal.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements of rule 481—944.2(157). 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

(2) Submit the completed online renewal application and renewal fee and upload certificate(s) of completion for related continuing education before the license expiration date.

b. Licensees currently licensed in Iowa but practicing exclusively in another state or serving honorably as active duty military or the spouse of active duty military service personnel may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state where the licensee practices. Those licensees living and practicing exclusively in a state that has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due (Iowa Code section 272C.2(4)).

940.8(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. 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.

940.8(5) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 481—subrule 507.5(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

940.8(6) 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 barbering and cosmetology arts and sciences in Iowa until the license is reactivated. A licensee who practices barbering and cosmetology arts and sciences 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.

940.8(7) 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.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

940.9(1) Submit a reactivation application on a form provided by the board.

940.9(2) Pay the reactivation fee that is due as specified in rule 481—507.5(147,157).

940.9(3) Provide verification of current competence to practice barbering and cosmetology arts and sciences 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 from the jurisdiction in which the applicant has most recently been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 six hours of continuing education that meet the continuing education standards defined in rule 481—944.3(157,272C) within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an 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 from the jurisdiction in which the applicant has most recently been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction 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 12 hours of continuing education that meet the continuing education standards defined in rule 481—944.3(157,272C) within two years of application for reactivation.

940.9(4) Licensees who are instructors of barbering and cosmetology arts and sciences shall obtain an additional six hours of continuing education in teaching methodology as prescribed in 481—Chapter 944.

[ARC 7920C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—940.10(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 rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—940.9(17A,147,272C) prior to practicing barbering and cosmetology arts and sciences in this state.

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These rules are intended to implement Iowa Code chapters 157 and 272C.

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◇ Two or more ARCs

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CHAPTER 941
LICENSURE OF ESTABLISHMENTS AND SCHOOLS OF BARBERING AND COSMETOLOGY ARTS
AND SCIENCES

[Prior to 7/29/87, Health Department[470] Chs 149, 150]

[Prior to 12/23/92, see 645—Chapter 60]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 61]

481—941.1(157) Definitions. In addition to the definitions included in Iowa Code sections 157.1 and 84D.2 and 29 Code of Federal Regulations (CFR) §29.5 as amended on December 19, 2016, the following definitions apply to terms used in this chapter:

“*Change in ownership*” means any of the following: a new owner of a sole proprietorship; the addition, removal, or replacement of any co-owner(s) in a partnership; or a change of controlling interest in any corporation.

“*Clinic area*” means the area of the school where the paying customers will receive services.

“*Dispensary*” means a separate area to be used for storing and dispensing of supplies and sanitizing of all implements.

“*Establishment license*” means a license issued to an Iowa establishment, as defined in Iowa Code section 157.1(10A), to provide barbering and cosmetology arts and sciences services.

“*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.

“*Legacy curriculum*” means a course of study and curriculum offered by barbering schools or cosmetology arts and sciences schools that, as applicable, comply with the administrative rules issued by the Iowa board of barbering or by the Iowa board of cosmetology arts and sciences that were in effect on June 30, 2023.

“*Mentor*” means a licensee providing guidance in a mentoring program.

“*Mentoring*” means a program allowing students in a school to experience barbering and cosmetology arts and sciences in a licensed establishment under the guidance of a mentor.

“*On-the-job trainer*” means the individual providing instruction and supervision of the apprenticeship program practical hours. This individual must be a licensee of the board in the discipline for which the individual is training, and the training must occur in a licensed establishment.

“*School*” means a school of barbering and cosmetology arts and sciences.

“*School license*” means a license issued to an establishment that is a fixed location for the instruction of students in barbering and cosmetology arts and sciences.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.2(157) Establishment licensing. No person shall operate an establishment unless the owner has obtained a license issued by the board. A separate enclosed area inside an establishment that is operated as an independent business for the purpose of providing barbering and cosmetology services shall be considered its own establishment and shall not operate unless an establishment license is obtained. To determine what defines an independent contractor versus an employee, persons should contact the Iowa division of labor.

941.2(1) The owner shall complete a board-approved application form accompanied by the appropriate fees payable by check or money order to the board of barbering and cosmetology arts and sciences. The fees are nonrefundable. The application shall be completed according to the instructions contained in the application and submitted 30 days prior to the anticipated opening day. If the application is not completed according to the instructions, the application will not be reviewed by the board.

941.2(2) Each establishment shall meet the requirements for sanitary conditions established in 481—Chapter 943 to be eligible for licensing. The establishment may be inspected for compliance with sanitation rules within 12 months following the issuance of the establishment license.

a. The establishment license may be for a fixed location or a location that is readily movable.

(1) Stationary establishment. A stationary establishment license shall be issued for a specific location. A change in location or site of a stationary establishment shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 481—subrule 507.2(7). A change of address without a change of actual location shall not be construed as a new site.

(2) Readily movable establishment. A readily movable establishment license shall be issued for a permanent physical address. The licensee is required to provide a permanent physical address for board correspondence. A readily movable establishment may operate in a legal parking spot or on private property, with the permission of the owner or the owner’s designee, anywhere in the state of Iowa, provided the readily movable establishment is operating in compliance with applicable federal and state transportation, environmental, and sanitary regulations, including those in this chapter and in 481—Chapter 943.

b. Establishment owner's contact information. The listed owner of either a stationary or readily movable establishment must update the board within 30 days of a change in contact information, which includes telephone number, email address, and mailing address.

941.2(3) Business may commence at the establishment following activation of the license.

941.2(4) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

941.2(5) An establishment license is not transferable.

a. A change in ownership of an establishment shall require the issuance of a new license.

b. An establishment cannot be sold if disciplinary actions are pending.

c. If an establishment owner sells the establishment, that owner must send the license certificate and a report of the sale to the board within ten days of the date on which the sale is final. The owner of the establishment on record shall retain responsibility for the establishment until the notice of sale is received in the board office.

d. The board may request legal proof of the ownership transfer.

e. If the name or the address of an establishment changes, the owner shall notify the board within 30 days of such change. Additionally, the owner shall return the current certificate and pay the reissued certificate fee as specified in rule 481—507.5(147,157).

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.3(157) Readily movable establishment. A mobile home, motor home, trailer, or other recreational vehicle may be used as a readily movable establishment if it complies with the following:

941.3(1) The owner shall possess a current readily movable establishment license issued by the board.

941.3(2) The owner shall complete a board-approved application.

941.3(3) The readily movable establishment's owner's telephone number, email address, and permanent address must be included on the application for licensure and must be updated and accurate.

941.3(4) No service may be performed on a client in a moving vehicle. Services shall be performed in a readily movable establishment that is parked in a legal parking spot.

941.3(5) Readily movable establishments must provide:

a. A supply of hot and cold water;

b. Adequate lighting;

c. A floor surface in the service area that is nonabsorbent and easily cleanable;

d. Work surfaces that are easily cleanable;

e. Cabinets secured with safety catches wherein all chemicals shall be stored when the vehicle is moving;

f. A first-aid kit that includes adhesive dressing, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

941.3(6) A readily movable establishment must comply with all rules in 481—Chapter 943, "Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences," except rules 481—943.6(157) through 481—943.8(157).

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.4(157) Establishment license renewal.

941.4(1) The biennial license renewal period for an establishment license shall begin on January 1 of every odd-numbered year and end on December 31 two years later.

941.4(2) A renewal of license notice shall be electronically mailed to the owner of the establishment prior to the expiration of the license. Failure to receive the renewal notice shall not relieve the owner of the obligation to pay the biennial renewal fee on or before the renewal date.

941.4(3) An establishment that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

941.4(4) The establishment owner shall submit the completed application with the renewal fee to the board office before the license expiration date.

941.4(5) An establishment shall be in full compliance with this chapter and 481—Chapter 943 to be eligible for renewal. When all requirements for license renewal are met, the establishment shall be issued a license renewal.

941.4(6) If the renewal fee and renewal application are received in the office after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.5(272C) Inactive establishment license.

941.5(1) An establishment that has not renewed the establishment license within the required time frame will have an inactive license and shall not provide barbering and cosmetology arts and sciences services until the license is reactivated.

941.5(2) To reactivate an establishment license, the reactivation application and fee shall be submitted to the board office.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.6(157) Display requirements for establishments.

941.6(1) Every establishment shall have a sign visible outside the entrance designating the place of business.

941.6(2) The most current establishment license proof of renewal shall be posted in the establishment front entrance area to provide the public a full, unobstructed view of the license.

941.6(3) The most current license proof of renewal for each licensee working in the establishment shall be posted in the establishment front entrance area to provide the public a full, unobstructed view of the license.

941.6(4) If the licensee works in more than one establishment, the current proof of renewal shall be posted in the primary place of practice, and the licensee shall be able to provide the renewal upon request.

941.6(5) If a licensed establishment is operating an apprenticeship program, a sign shall be clearly displayed in the entrance of such establishment that indicates in prominent lettering that apprentices are employed at the establishment and may perform services under the supervision of a licensed apprenticeship supervisor.

941.6(6) If any blow-dry stylist(s) engage in the practice of blow-dry styling at a licensed establishment, a sign shall be clearly displayed in the entrance of such establishment that indicates in prominent lettering that blow-dry stylist(s) perform limited services, as defined in Iowa Code section 157.12C, in the licensed establishment.

941.6(7) Each licensee, blow-dry stylist and apprentice shall have a valid U.S. government-issued photo ID to provide to an agent of the board upon request as proof of identity.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.7(147) Duplicate certificate for establishments.

941.7(1) A duplicate certificate shall be required if the current certificate is lost, stolen or destroyed. A duplicate certificate shall only be issued under such circumstances.

941.7(2) A duplicate establishment certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in 481—subrule 507.5(5).

941.7(3) If the board receives a completed application stating that the owner of the establishment has not received the certificate within 60 days after the certificate is mailed by the board, no fee shall be required for issuing the duplicate certificate.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.8(157) Licensure for schools of barbering and cosmetology arts and sciences.

941.8(1) An application for a school license shall be submitted 90 days prior to the anticipated opening day of the school. Prior to board review, the application shall include:

a. The exact location of the proposed school including a copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year; a complete plan of the physical facilities; and an explanation detailing how the facilities will be utilized relative to classrooms, clinic space, and a mentoring program;

b. A list of the names of licensed instructors including the school director(s) for the proposed school if the instructors and school director(s) have been hired by the school at the time of application;

c. Copies of the catalog, brochure, enrollment contract, student policies, and cancellation and refund policies that will be used by the school or distributed by the school to students and the public; and

d. The school's course of study and curriculum, which shall meet the course of study requirements outlined in rule 481—941.14(157).

941.8(2) Prior to issuance of the school license, the school shall:

a. Submit a final list of licensed instructors and director(s) hired for the school. The number of instructors must meet the requirement outlined in Iowa Code section 157.8, with the exception of instructors for the mentoring program; and

b. Meet the requirements of this chapter and 481—Chapter 943 and pass the board's inspection of the facility.

941.8(3) The school owner may be interviewed by the board during the review of the application.

941.8(4) After all criteria have been met, the school license shall be granted for the location identified in the school's application.

941.8(5) Instruction of students shall not begin until the school license is activated.

941.8(6) The school must provide proof of registration with the Iowa college student aid commission.

941.8(7) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records shall be maintained after two years only if the applicant submits a written request to the board.

941.8(8) Existing school license, new location. A change of location shall require submission of an application for a new school license and payment of the license fee 90 days in advance of the anticipated date of opening. A change of address without a change of actual location shall not be construed as a new site.

941.8(9) Existing school license, new name. The owner shall notify the board in writing of a change of name within 30 days after the occurrence. In addition, the owner shall return the current certificate and pay the reissued certificate fee as specified in rule 481—507.5(147,157).

941.8(10) Existing school license, change of ownership. A school license is not transferable. A change in ownership of a school shall require the issuance of a new license. A school cannot be sold if disciplinary actions are pending.

a. The board may request legal proof of the ownership transfer.

b. If a school owner sells the school, that owner must send the license certificate and a report of the sale to the board within ten days of the date on which the sale is final. The owner of the school on record shall retain responsibility for the school until the new school owner has been issued an active school license.

c. The new school owner shall follow all requirements as outlined in rule 481—941.8(157).

941.8(11) Any school licensed as a barber school under rule 645—23.2(158) prior to July 1, 2024, will, upon successful renewal, receive a license as a school of barbering and cosmetology arts and sciences. Any school licensed as a cosmetology arts and sciences school under this chapter prior to July 1, 2024, will, upon successful renewal, receive a license as a school of barbering and cosmetology arts and sciences.

This rule is intended to implement Iowa Code sections 147.80, 157.6 and 157.8.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.9(157) School license renewal.

941.9(1) The annual license renewal period for a school license shall begin on July 1 and end on June 30 one year later.

a. The online renewal application and renewal fee shall be submitted before the license expiration date.

b. Schools shall be in full compliance with this chapter and 481—Chapter 943 to be eligible for renewal. When all requirements for license renewal are met, the school shall be issued a license renewal.

c. Schools shall successfully complete the annual inspection pursuant to Iowa Code sections 157.6 and 157.8.

941.9(2) A school that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal one year later.

941.9(3) If the renewal fee and renewal application are submitted after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.10(272C) Inactive school license.

941.10(1) If the renewal application and fee are not received in the office within 30 days after the license expiration date, the school license is inactive. To reactivate the school license, the reactivation application and fee shall be submitted to the board.

941.10(2) A school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is reactivated.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.11(157) Display requirements for schools.

941.11(1) Every school shall have a sign visible outside the entrance designating the place of business.

941.11(2) A school license and the current proof of renewal shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license.

941.11(3) The current license proof of renewal for each instructor working at the school shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license.

941.11(4) Advertisements for a school of barbering and cosmetology arts and sciences shall indicate that all services are performed by students under the supervision of instructors.

941.11(5) A sign shall be clearly displayed in the entrance of a school of barbering and cosmetology arts and sciences that indicates in prominent lettering that students perform all services under the supervision of instructors.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.12(157) Physical requirements for schools of barbering and cosmetology arts and sciences. The school shall meet the following physical requirements:

941.12(1) The school premises shall have a minimum floor space of 3,000 square feet.

941.12(2) Each school shall provide a minimum of 100 square feet per student. When the enrollment in a school exceeds 30 students, additional floor space of 30 square feet shall be required for each additional student enrolled in the school.

941.12(3) Each licensed school offering a full barbering and cosmetology arts and sciences curriculum shall provide the following:

a. At least one clinic area where the paying public will receive services. The clinic area shall be confined to the premises occupied by the school.

b. A theory classroom(s) separate from the clinic area.

c. A library that is maintained for students and consists of textbooks, current trade publications and business management materials.

d. A separate area that shall be used as a dispensary. The dispensary shall be equipped with a lavatory, shelves or drawers for storing chemicals, cleansing agents and items, sterilization equipment and any other sanitation items required by 481—Chapter 943. Clean items and dirty items in the dispensary must be kept separated as required by 481—Chapter 943.

e. Two restrooms that are equipped with toilets, lavatories, soap and disposable paper towel dispensers.

f. A laundry room that is separated from the clinic area by a full wall or partition. Students may not lounge, eat, practice or study in the laundry room.

g. A separate room that is equipped for the practice of esthetics and electrology.

h. An administrative office.

941.12(4) Each licensed school offering a single discipline barbering and cosmetology arts and sciences curriculum shall provide the same physical space as outlined in subrule 941.12(3). Single discipline schools are exempt from paragraph 941.12(3)“g” if the board did not originally approve an electrology or esthetics course of study in the curriculum.

This rule is intended to implement Iowa Code sections 157.6 and 157.8.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.13(157) Minimum equipment requirements. Each school of barbering and cosmetology arts and sciences shall have the following minimum equipment:

1. Workstations equipped with chair, workstation, closed drawer or container for sanitized articles, and mirror (maximum of two students per unit);

2. Treatment room(s) when electrology or esthetics or both are offered;

3. One set of hard-copy or electronic textbooks for each student and instructor;

4. Adequate number of shampoo bowls and chairs with headrests located in the clinic area and readily accessible for students and clients if the school offers a curriculum course in barbering and cosmetology;

5. Adequate equipment to perform all services in a safe and sanitary manner;

6. Audiovisual equipment available for each classroom;

7. Chair and table area for each student in the classroom;

8. One set of files maintained for all required records; and

9. Labeled bottles and containers showing intended use of the contents.

This rule is intended to implement Iowa Code sections 157.6 and 157.8.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.14(157) Course of study requirements. A school of barbering and cosmetology arts and sciences shall not be approved by the board of barbering and cosmetology arts and sciences unless it complies with the course of study requirements as provided below.

941.14(1) Requirements for hours.

a. Barbering and cosmetology curriculum. Supervised practical instruction, theory and demonstrations totaling 1,550 hours must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(1).

Core life sciences	150 hours
Barbering and cosmetology theory (including business and management related	440 hours

to the practice of barbering and cosmetology)

Total core life sciences and barbering and cosmetology theory: 590 hours

Applied practical instruction 960 hours

Total course of study 1550 hours (51 semester credit hours)

b. Electrology curriculum. Supervised practical instruction, theory and demonstrations totaling 425 hours must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(10).

Core life sciences 150 hours

Electrology theory 50 hours

Applied practical instruction 225 hours

Total course of study 425 hours (14 semester credit hours)

c. Esthetics curriculum. Supervised practical instruction, theory and demonstrations must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(13).

Core life sciences 150 hours

Esthetics theory 115 hours

Applied practical instruction 335 hours

Total course of study 600 hours (20 semester credit hours)

d. Nail technology curriculum. Supervised practical instruction, theory and demonstrations must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(25).

Core life sciences 150 hours

Nail technology theory 50 hours

Applied practical instruction 125 hours

Total course of study 325 hours (11 semester credit hours)

Proof of curriculum requirements may be submitted to the board by either the clock hour or semester credit hour standard. Semester credit hours or the equivalent thereof shall be determined pursuant to administrative rules and regulations promulgated by the U.S. Department of Education.

941.14(2) Curriculum requirements.

a. Theory instruction shall be taught from a standard approved textbook but may be supplemented by other related textbooks. Online coursework is allowed for theory instruction.

b. Course subjects taught in the school curriculum, including skills and business management, shall relate to the specific practice discipline.

c. Required hours for theory and applied practical hours do not have to be obtained from one school.

d. Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline. Online coursework is allowed for core life sciences instruction.

e. Clock hours may be converted to credit hours using a standard, recognized method of conversion. Only hours from accredited or board-approved school programs will be accepted.

941.14(3) Core life sciences curriculum. The core life sciences curriculum shall contain the following instruction:

a. Human anatomy and physiology:

Cell, metabolism and body systems,
Human anatomy;

b. Bacteriology;

c. Infection control practices:

Universal precautions,
Sanitation,
Sterilization,
Disinfection;

d. Basic chemistry;

e. Matter;

f. Elements:

Compounds and mixtures;

g. Basic electricity;

- h.* Electrical measurements:
Reproduction of light rays,
Infrared rays,
Ultraviolet rays,
Visible rays/spectrum;
- i.* Safety;
- j.* Hygiene and grooming:
Personal and professional health;
- k.* Professional ethics;
- l.* Public relations; and
- m.* State and federal law, administrative rules and standards.

941.14(4) The school shall maintain a copy of the curriculum plan as directed by the school's accrediting agency or, if not subject to an accrediting agency, for a minimum of three years after the curriculum plan was taught by the school.

941.14(5) A school initially licensed after July 1, 2024, must offer a curriculum and course of study for one or more practice disciplines as prescribed in subrules 941.14(1) through 941.14(3).

941.14(6) For a school licensed prior to July 1, 2024, the following provisions apply:

a. Students enrolling in the school on or after August 1, 2024, must be taught a curriculum and course of study for one or more practice disciplines as prescribed by subrules 941.14(1) through 941.14(3).

b. Students enrolling in the school prior to August 1, 2024, may either be taught:

(1) A curriculum and course of study for one or more practice disciplines as prescribed by subrules 941.14(1) through 941.14(3); or

(2) A legacy curriculum in one or more practice disciplines. Any student graduating from a school after completing a legacy curriculum pursuant to this subrule will satisfy the education requirement for licensure as provided in 481—subparagraph 940.2(1)“c”(1).

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.15(157) Instructors. All instructors in a school of barbering and cosmetology arts and sciences shall be licensed by the department.

941.15(1) An instructor teaching a course in electrology, esthetics or nail technology shall also hold a license in that practice discipline or hold a barbering and cosmetology license that shows proof of having completed training in those practices equivalent to that of a license holder in that practice.

941.15(2) An instructor teaching a course in shaving, microdermabrasion, chemical peels, intense pulsed lights (IPLs) and lasers shall be certified by the state of Iowa to provide each of the services, as set forth in rule 481—940.4(157). An individual who was licensed as an Iowa barber prior to July 1, 2023, is not required to hold an Iowa board-issued shaving certificate.

941.15(3) A minimum of two instructors shall be employed on a full-time basis for up to 30 students and an additional instructor for each additional 15 students.

a. The number of instructors for each school of barbering and cosmetology arts and sciences shall be based upon total enrollment.

b. A student instructor shall not be used to meet licensed instructor-to-student ratios.

c. A school with less than 30 students enrolled may have one licensed instructor on site in the school if offering only clinic services or only theory instruction in a single classroom and less than 15 students are present.

d. If a school is offering clinic services and theory instruction simultaneously to less than 15 students, at least two licensed instructors must be on site.

e. Area community colleges operating a school prior to September 1, 1982, with only one instructor per 15 students are not subject to this subrule and may continue to operate with the ratio of one instructor to 15 students. A student instructor shall not be used to meet licensed instructor-to-student ratios.

941.15(4) An instructor shall:

a. Be responsible for and in direct charge of all physical and virtual core and theory classrooms and practical classrooms and clinics at all times;

b. Familiarize students with the different standard supplies and equipment used in establishments; and

c. Not perform barbering and cosmetology arts and sciences services, with or without compensation, on the school premises except for demonstration purposes, such as continuing education classes consistent with rule 481—941.23(157).

This rule is intended to implement Iowa Code chapter 157.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.16(157) Student instructors. A student instructor shall be a license holder in the barbering and cosmetology arts and sciences. Each student instructor shall be under the direct supervision of a licensed instructor at all times.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.17(157) Students.

941.17(1) A school of barbering and cosmetology arts and sciences shall, prior to the time a student is obligated for payment, inform the student of all provisions set forth in Iowa Code section 714.25. The school shall retain a copy of the signed statement for two years following the student's graduating or leaving the program.

941.17(2) Students shall:

- a. Wear clean and neat uniforms at all times during school hours and during the mentoring program;
- b. Be supervised by a licensed instructor at all times except in a mentoring program when the students shall be under the guidance of a mentor;
- c. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch;
- d. Attend school no more than eight hours a day. Schools may offer additional hours to students who submit a written request for additional hours;
- e. Receive no compensation from the school for services performed on clients;
- f. Provide services to the public only after completion of a minimum of 10 percent of the course of study;
- g. Not be called from theory class to provide services to the public;
- h. Not be required to perform janitorial services or be allowed to volunteer for such services. Sanitation of the bathroom area shall be limited to replacing products and disinfecting the vanity and mirror surfaces. Sanitation of the toilet and bathroom floor areas is not to be performed by the student and is excluded from student sanitation duty; and
- i. Receive no credit or hours for decorating for marketing or merchandising events or for participating in demonstrations of barbering and cosmetology arts and sciences when the sole purpose of the event is to recruit students and the event is outside the curriculum course.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.18(157) Attendance requirements.

941.18(1) A school of barbering and cosmetology arts and sciences shall have a written, published attendance policy.

941.18(2) Schools shall ensure:

- a. Students complete the hours required for each course of study set forth in rule 481—941.14(157).
- b. Student attendance policies are applied uniformly and fairly for all physical and virtual classes.
- c. Appropriate credit is given for all hours earned.
- d. All retake tests and projects to be redone are completed without benefit of additional hours earned. Time scheduled for such work will be scheduled at the school's discretion.
- e. Hours or credit is not added to the cumulative student record as an award or deducted from the cumulative student record as a penalty.
- f. Work that must be done for missed hours must be allowed. The student must be given full credit for hours earned.

941.18(3) Pursuant to the federal Department of Education and accrediting standards agency, the school may adopt an absence policy not to exceed 10 percent of required coursework for doctor's excuses and life events. In no way shall this policy create a penalty for the student nor excuse the student from the remaining 10 percent of required coursework.

This rule is intended to implement Iowa Code chapter 157.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.19(157) Accelerated learning.

941.19(1) A school may adopt an accelerated learning policy that includes the acceptance of life experience, prior knowledge learned and test-out procedures.

941.19(2) If the school has an accelerated learning policy, the policy shall be a written, published policy that clearly outlines the criteria for acceptance and hours or credit granted or for test-out procedures. The hours or credit granted for accelerated learning shall not exceed 20 percent of the student's entire course of study and shall be documented in the participating student's file.

- a. After completion of all entrance requirements, a student may elect to sit for one or more academic written tests to evaluate the knowledge about subject matter gained from life experience or prior learning experience.
- b. A student in a barbering and cosmetology arts and sciences course of study may be allowed to test out of a subject by sitting for final examinations covering the basic knowledge gained by a student who attends class sessions, or the school may accept and grant hours for prior or concurrent education and life experience.
- c. A student who wishes to receive test-out credit or be granted hours for prior or concurrent education or life experience shall have maintained the academic grades and attendance policy standards set by the school.
- d. The school may limit the number of times a student is allowed to sit for a test-out examination of a subject.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.20(157) Mentoring program. Each barbering and cosmetology arts and sciences school must have a contract between the student, the school and the establishment mentor that includes scheduling, liability insurance and purpose of the mentoring program.

941.20(1) Students shall not begin the mentoring program until they have completed a minimum of 50 percent of the total contact or credit hours and other requirements of the mentoring program established by the school.

941.20(2) Students may participate in a mentoring program for no more than 5 percent of the total contact or credit hours.

941.20(3) Students shall be under supervision of the mentor at all times. Students may perform the following: drape, shampoo, remove color and perm chemicals, remove perm rods, remove rollers, apply temporary rinses, apply reconditioners and rebuilders with the recommendation of the mentor, remove nail polish, file nails, perform hand and arm massage, remove cosmetic preparations, act as receptionist, handle retail sales, sanitize establishment, consult with client (chairside manners), perform inventory, order supplies, prepare payroll and pay monthly bills, and hand equipment to the mentor.

941.20(4) The establishment mentor's responsibilities include the following: introduce the student to the establishment and the client, record the time of the student's attendance in establishment, prepare evaluation, discuss performance, and allow the student to shadow.

941.20(5) An establishment or school shall not compensate students when the students are participating in the mentoring program.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.21(157) Graduate of a school of barbering and cosmetology arts and sciences.

941.21(1) A student shall be considered a graduate when the student has completed the required course of study and met the minimum attendance standard.

941.21(2) Students shall be given a final examination upon completion of the course of study but before graduation.

941.21(3) After passage of the final examination and completion of the entire course of study including all project sheets, students shall be issued a certificate of completion of hours required for the course of study.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.22(157) Records requirements.

941.22(1) Each school of barbering and cosmetology arts and sciences shall maintain a complete set of student records. Individual student hours shall be kept on file at the school for two years following graduation.

941.22(2) Each school shall maintain daily teaching logs for all instructors, which shall be kept on file at the school for two years.

941.22(3) Prior to closure, the controlling school shall establish agreements with another school to maintain student and graduate transcripts and records. Prior to closure, the controlling school shall also notify the board in writing of the location of student records as established by the maintenance agreements and shall submit a copy of the maintenance agreements to the board. Provisions in the agreement must include maintenance of student transcript records for a period of no less than two years.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—941.23(157) Classrooms used for other educational purposes. The licensed school of barbering and cosmetology arts and sciences may be used during scheduled theory or applied practical time for any use other than for student instruction so long as these activities do not disrupt classes. Activities that disrupt classes include but are not limited to:

941.23(1) Persons attending other educational classes passing through a classroom or clinic area (en masse) while it is in use.

941.23(2) Activities with noise levels that are disruptive to other classes.

941.23(3) Activities that usurp the space available for barbering and cosmetology arts and sciences instruction.

[ARC 7921C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code chapters 157 and 272C.

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CHAPTER 942

FEES

[Prior to 7/29/87, Health Department[470] Ch 149]

[Prior to 12/23/92, see 645—60.14(157) for Fees]

Rescinded IAB 12/31/08, effective 2/4/09

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 62]

CHAPTER 943
INFECTION CONTROL FOR ESTABLISHMENTS AND SCHOOLS OF BARBERING AND
COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470], Chs 149, 150]

[Prior to IAC 12/23/92, see 645—Chapters 60, 61]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 63]

481—943.1(157) Definitions. For purposes of these rules, the following definitions shall apply:

“*Cleaning*” means removing visible debris and disposable parts, washing the surface or item with water and soap or detergent, rinsing the surface or item thoroughly and drying the surface or item. Cleaning must occur before disinfection can begin.

“*Disinfectant*” means a U.S. Environmental Protection Agency (EPA)-registered bactericidal, virucidal, fungicidal, pseudomonacidal chemical solution, spray or wipe that is effective against HIV-1 and human hepatitis B virus and is intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on nonporous items and surfaces.

“*Disinfection*” means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

“*Dispensary*” means a separate physical location or area in an establishment or school to be used for the storing and dispensing of supplies and cleaning and disinfecting of all implements. The dispensary is where products, chemicals and disinfectants are prepared, measured, mixed, portioned, and disposed of.

“*FDA*” means the federal Food and Drug Administration.

“*Germicide*” means an agent that destroys germs.

“*Nonporous*” means an item that lacks minute openings or crevices that allow air, water and bacteria to enter the item.

“*Porous*” means an item that contains minute openings or crevices that allow air, water and bacteria to enter the item, such as untreated wood, paper and cardboard.

“*School*” means a school of barbering and cosmetology arts and sciences.

“*Service provider*” means any person regulated by Iowa Code chapter 157, including but not limited to establishment owners, licensees, students, blow-dry stylists and apprentices.

“*Sterilization*” means the procedure that kills all microorganisms, including their spores.

“*Universal precautions*” means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

“*Wash hands*” means the process of thoroughly washing hands and the exposed portions of the arms up to the elbow with soap or detergent and water and drying with a single-use towel or air dryer. Bar soap shall not be set out for common use.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.2(157) Infection control rules and inspection report. Upon request, the licensee shall make Chapter 943, “Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences,” and the most recent inspection report available to the board, agents of the board, all persons employed or studying in an establishment or school, and the general public.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.3(157) Responsibilities of establishment owners. Each establishment owner shall ensure the following:

1. The establishment owner holds a current and active establishment license issued by the board that reflects the current name, address and owner information;
2. Individuals employed for barbering and cosmetology arts and sciences services or other licensees working in the establishment hold a current and active license issued by the board of barbering and cosmetology arts and sciences;
3. Licensees employed by the establishment or other licensees and service providers working in the establishment do not exceed their scope of practice; and
4. License renewal cards are properly displayed in the front entrance area at eye level. No license that has expired or become invalid for any reason shall be displayed in connection with the practices of the establishment.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.4(157) Responsibilities of licensees. Licensees are responsible for:

1. Their own station areas;
2. Holding a current and active license issued by the board of barbering and cosmetology arts and sciences; and
3. Ensuring that they do not exceed their scope of practice.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.5(157) Joint responsibility. Establishment owners and licensees are jointly responsible for all service and common areas.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.6(157) Building standards. Establishments and schools shall have and maintain:

1. A service area that is equipped with exhaust fans or air filtration equipment that is of sufficient capacity to be capable of removing chemical fumes from the air;
2. A dispensary;
3. A reception area;
4. Hot and cold running water and clean lavatory facilities;
5. Safe drinking water;
6. Hand-washing facilities;
7. Adequate lighting;
8. Work surfaces that are easily cleanable; and
9. A complete first-aid kit in a readily accessible location on the premises. At a minimum, the first-aid kit must include adhesive dressings, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.7(157) Establishments in residential buildings.

943.7(1) An establishment located in a residential building shall comply with all requirements in rule 481—943.5(157).

943.7(2) A separate entrance shall be maintained for establishment rooms in a residential building. An exception is that an entrance may allow passage through a nonliving area of the residence, i.e., hall, garage or stairway. Any door leading directly from the licensed establishment to any portion of the living area of the residence shall be closed at all times during business hours.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.8(157) Establishments adjacent to other businesses. An establishment operated adjacent to any other business shall be separated by at least a partial partition. When the establishment is operated immediately adjacent to a business where food is handled, the business shall be entirely separated, and any doors between the establishment and the business shall be rendered unusable except in an emergency.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.9(157) Smoking. All establishments licensed by the board shall comply with the smokefree air Act found in Iowa Code chapter 142D.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.10(157) Personal cleanliness. Any service provider engaged in serving the public shall be neat and clean in person and attire.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.11(157) Universal precautions. Any service provider shall practice universal precautions consistently by observing the following:

943.11(1) Thoroughly wash hands after smoking, vaping, eating, using the restroom, etc., and before providing services to each client. Hand sanitizers or gloves are not an acceptable substitute for hand washing.

943.11(2) Maintain biohazard sharps container for disposing of used needles, razor blades and other sharp instruments in establishments. These containers shall be located as close to the use area as is practical. These containers shall not be filled above the designated “fill line” and shall be disposed of in accordance with guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

943.11(3) Wear disposable gloves or may refuse to provide the service when encountering clients with open sores. Gloves shall only be used on a single client and shall be disposed of after the client’s service. Any time gloves are used during a service, wash hands both before gloves are worn and after they are removed.

943.11(4) Refrain from all direct client care and from handling client-care equipment if the service provider has open sores that cannot be effectively covered.

943.11(5) Clean and disinfect instruments and implements pursuant to rule 481—943.13(157).

943.11(6) Place instruments and supplies that have been used on a client or soiled in any manner in the proper receptacles clearly labeled “used.” All used items shall be kept separate from items that are disinfected and ready for use.

943.11(7) Store disinfectant solution in the dispensary.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.12(157) Blood exposure procedures.

943.12(1) If a service provider injures oneself, the following steps shall be taken before returning to service:

- a. Stop service.
- b. Clean the injured area by washing the area with soap and water. Use antiseptic or ointment as appropriate.
- c. In the case of mucous membrane exposure, wash or rinse the affected area with sufficient water.
- d. Cover the injury with the appropriate dressing.
- e. Clean the client and station as necessary. First, remove all visible debris and then clean the client with an antiseptic that is appropriate for the skin and clean the station with disinfectant.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

943.12(2) If a client injury occurs, the service provider shall take the following steps:

- a. Stop service.
- b. Glove hands.
- c. Clean injured area and use antiseptic or ointment as appropriate.
- d. Cover the injury with the appropriate dressing to prevent further blood exposure.
- e. Clean station by removing all visible debris and using disinfectant that is appropriate for the soiled surface.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.13(157) Disinfecting and sterilizing instruments and equipment. All nonporous tools and implements must be either disinfected or sterilized according to the requirements of this rule before use upon a client in schools and establishments.

943.13(1) Disinfection.

a. Nonporous tools and implements.

(1) Immersion method. After each use, all immersible nonporous tools and implements shall be disinfected by cleaning the tools and implements followed by complete immersion in a disinfectant. Disinfectant solutions shall be mixed according to manufacturer label instructions. The manufacturer’s listed contact time for effectively eliminating all pathogens shall be adhered to at all times.

(2) Nonimmersion method. After each use, any nonporous item that cannot be immersed in a disinfectant shall be cleaned with soap or detergent and water to remove all organic material and then sprayed or wiped with disinfectant. Minimum disinfectant contact time as listed on the manufacturer’s label shall be followed. Nonimmersible tools and implements include but are not limited to scissors, trimmers, clippers, handles of hair dryers and curling/flat irons.

b. Disinfected implements shall be stored in a disinfected, dry, covered container and shall be isolated from contaminants. Such container shall be disinfected at least once each week and whenever visibly dirty.

c. Disinfectant solutions shall be changed as instructed on the solution’s manufacturer label or whenever visibly dirty.

d. Electric file bits.

(1) After each use, all visible debris shall be removed from diamond, carbide, natural and metal bits by cleaning with either an ultrasonic cleaner or immersion of each bit in acetone for five to ten minutes.

(2) After they are cleaned, diamond, carbide, natural and metal bits shall be disinfected by complete immersion in an appropriate disinfectant. Minimum disinfectant contact time as listed on the manufacturer’s label shall be followed.

943.13(2) Sterilization. Ultraviolet (UV) light boxes are prohibited and are not an acceptable method of sterilization.

a. Tools and implements may be sterilized by one of the following methods:

(1) Steam sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If steam sterilization, or moist heat, is utilized, heat exposure shall be at a minimum of 121°C/250°F for at least 30 minutes;

(2) Dry heat sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If dry heat sterilization is utilized, heat exposure shall be at a minimum of 171°C/340°F for at least 60 minutes;

(3) Autoclave sterilization equipment, calibrated to ensure that it reaches the temperature required by the manufacturer's instructions. If autoclave sterilization equipment is utilized, spore testing by a contracted independent laboratory shall be performed at least every 30 days. If a positive spore test is received, the autoclave may not be used until a negative spore test is received. The establishment must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of all maintenance performed on the device. Maintenance shall be performed according to the manufacturer's instructions. The establishment must have available for inspection the autoclave maintenance log for the most recent 12 months; or

(4) Chemical sterilization with a hospital grade liquid which, if used, shall be used according to the directions on the label. When chemical sterilization is used, items shall be fully submerged for at least ten minutes.

b. Sterilization equipment shall be maintained in working order. The equipment shall be checked at least monthly and calibrated to ensure that it reaches the temperature required by the manufacturer's instructions.

This rule is intended to implement Iowa Code section 157.6.

[ARC 2600C, IAB 6/22/16, effective 8/15/16; ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.14(157) Porous instruments and supplies that cannot be disinfected. Porous instruments and supplies that come into direct contact with a client cannot be disinfected. These instruments and supplies include but are not limited to cotton pads, sponges, wooden applicators, emery boards, pumice stones, nail buffers, buffing bits, arbor or sanding bands, sleeves, toe separators and neck strips. These are single-use items and shall be disposed of in a waste receptacle immediately after use.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.15(157) Infection control methods for creams, cosmetics and applicators.

943.15(1) Liquids, creams, waxes, powders and cosmetics used for clients must be kept in closed, labeled containers.

943.15(2) All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

a. Applicators made of a washable, nonabsorbent material shall be cleaned and disinfected before being used on a client and shall only be dipped into the container one time before being cleaned and disinfected again.

b. Applicators made of wood shall be discarded after a single dip, which would be one use.

c. Roll-on wax products are prohibited.

d. The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use. Any material used to stop the flow of blood shall be used in liquid or powder form.

e. Neck dusters, brushes, and common shaving mugs and soap shall not be used in any establishment or school.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.16(157) Events and services provided outside of a licensed establishment.

943.16(1) Licensed barber and cosmetologists, nail technicians, and estheticians may provide limited services at certain locations (e.g., weddings) outside of a licensed establishment. Limited services:

a. Include makeup application, strip lashes, polish removal and application, and hairstyling.

b. Do not include the use of chemicals, lasers, or other machines.

c. May include haircutting, subject to the limitations on location provided in subrule 943.16(2).

943.16(2) Licensees may provide limited services outside of a licensed establishment as follows:

a. Limited services may not be provided unless scheduled through a licensed establishment. Alternatively, licensees may apply for a one-year temporary permit under Iowa Code section 157.4(1) to provide limited services outside of an establishment.

b. Limited services must be within the scope of practice of the licensed barber and cosmetologist, nail technician, or esthetician.

c. Limited services including haircutting may be provided at:

(1) The temporary or permanent residence of a client.

(2) The hospital, health care facility, nursing home or convalescent home of a client.

d. Limited services excluding haircutting may be provided at special events such as, but not limited to, weddings and photo shoots.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.17(157) Prohibited hazardous substances and use of products and equipment.

943.17(1) No establishment or school shall have on the premises cosmetic products containing substances that have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products. Prohibited products include, but are not limited to, any product containing liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is not approved by the FDA. Presence of a prohibited product in an establishment or school is prima facie evidence of that product's use in the establishment or school.

943.17(2) Pedicure instruments designed to remove skin from the bottoms and sides of feet, including but not limited to razor-edged, grating or rasp microplaners, are prohibited. The presence of such equipment is prima facie evidence of the equipment's use.

943.17(3) Procedures involving any animal (e.g., fish, leeches, snails) are prohibited in establishments and schools.

943.17(4) No establishment or school may have chamois buffers. If chamois buffers are observed in the workplace, their presence is prima facie evidence of their use.

943.17(5) No establishment or school may use plastic sleeves or envelopes to store cleaned and disinfected implements unless the implements stored in the plastic sleeves or envelopes have actually been sterilized pursuant to paragraph 943.13(2) "a."

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.18(157) Proper protection of neck. A properly laundered or disposable cape, haircloth, or similar article may be placed directly against the neck of a client. A cape, haircloth, or similar article that has not been sanitized or properly laundered shall be kept from direct contact with the client's neck by means of a paper neckband, clean towel, or cloth neckbands. A paper neckband shall not be used more than once. Towels or cloth neckbands shall not be used more than once without proper laundering. Neckbands of a nonporous material must be properly cleaned and disinfected after each use and stored in a closed container.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.19(157) Proper laundering and storage. All cloth towels, robes, and similar items shall be laundered in a washing machine with laundry detergent used according to the manufacturer's directions. All linens shall be dried until hot to the touch. No moisture shall be left in laundered items. A clean storage area shall be provided for clean towels and linens, and a covered hamper or receptacle marked "used" shall be provided for all soiled towels, robes, and linens.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.20(157) Animals. Dogs, cats, birds, or other animals are not permitted in establishments or schools. This rule does not apply to service animals as defined by the Americans with Disabilities Act or to fish in an aquarium provided the aquarium is maintained in a sanitary condition.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.21(157) General maintenance. All areas of the establishment and school shall be clean and in good repair.

943.21(1) Walls, floors, and fixtures must be kept clean and in good repair at all times.

943.21(2) Carpeting shall only be allowed in the reception and hooded dryer areas.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.22(157) Records. Client records, appointment records, and employment records shall be maintained for a period of not less than three years following the last date of entry. Proper safeguards shall be provided to ensure the safety of these records from destructive elements.

943.22(1) Records for services provided outside of a licensed establishment under rule 481—943.16(157) must include:

- a. Client name and contact information.
- b. Date, time and location of the service(s) provided.
- c. Name and license number of the licensee performing the service.
- d. A signed and dated waiver stating that the client understands this limited service shall not include the use of chemicals, must be provided by a licensee and that all infection control procedures shall be followed.

943.22(2) Records for employment of blow-dry stylists must include:

- a. Name and contact information of the employee.

b. Record of completion of a course on Iowa law, rules and infection control prior to employment, and within every two-year period thereafter as outlined in Iowa Code section 157.12C.

c. Hire date and termination date.

d. A signed and dated waiver stating that the employee understands blow-dry stylist services may only be performed in a licensed establishment upon completion of a course on Iowa law, rules and infection control. This waiver must be completed every two years as a condition of employment.

943.22(3) Foot spa service area records are outlined in subrule 943.24(3).

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.23(157) Establishments and schools providing electrology or esthetics. An establishment or school in which electrology or esthetics is practiced shall follow the infection control rules and requirements pertaining to all establishments and schools and shall also meet the following requirements:

1. The electrology or esthetics room shall have adequate space, lighting and ventilation.

2. The floors in the immediate area where the electrology or esthetics is performed shall have an impervious, smooth, washable surface.

3. All service table surfaces shall be constructed of impervious, easily disinfected material.

4. Needles, probes and lancets shall be single-client use and disposable.

5. Licensees providing electrology services shall wear gloves.

6. Adequate access to a sink or running water shall be provided.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.24(157) Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas.

943.24(1) After use for each client, a service provider shall do the following:

a. Drain the water and remove any visible debris;

b. Clean the surfaces according to the manufacturer's instructions, use a brush to remove all film, and rinse the tub, bowl, or spa basin;

c. Fill the tub, bowl, or spa basin with water and add disinfectant;

d. Allow the disinfectant to stand for noncirculating tubs, bowls, or basins or to circulate for circulating tubs, bowls, or basins for the time specified according to the manufacturer's instructions; and

e. After disinfection, drain and rinse with clean water.

943.24(2) At the end of the day, a service provider shall remove all removable parts from circulating tubs, such as filters, screens, drains, and jets, and clean and disinfect the removable parts as follows:

a. Scrub with a brush and soap or detergent until free from debris, and then rinse.

b. Completely immerse in disinfectant.

c. Rinse and air dry.

d. Replace the disinfected parts into the tubs, bowl, or basin or store the parts in a disinfected, dry, covered container that is isolated from contaminants.

943.24(3) Foot spa service area records. For each foot spa service, including but not limited to pedicures, a record shall be made of the date and time of the daily cleaning and disinfecting for all circulating and noncirculating tubs, bowls or basins. This record shall be made at or near the time of cleaning and disinfecting. Records of cleaning and disinfecting shall be made available upon request by a client, inspector or investigator. The record must be signed by a licensee and include the licensee's license number beside each recorded cleaning event. Foot spa records shall be maintained for two years from the date of the cleaning.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—943.25(157) Paraffin wax. Paraffin wax shall be used according to the manufacturer's instructions and shall be used in such a manner so as not to contaminate the remaining wax in the paraffin bath. The following procedures apply:

1. The client shall be free of broken skin or any skin disorder;

2. Hands or feet of a client shall be cleaned before being dipped into paraffin wax. The client's hands and feet shall not be dipped into the original wax container. The wax shall be removed from the original container and placed in a single-use bag before dipping. Any unused wax remaining in the single-use bag shall be discarded after dipping;

3. Paraffin wax that has been removed from a client's hands or feet shall be discarded after each use; and

4. Paraffin wax shall be kept free of any debris and kept covered when not in use.

[ARC 7922C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 147.7 and chapter 157.

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CHAPTER 944
CONTINUING EDUCATION FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Ch 151]

[Prior to 12/23/92, see 645—Chapter 62]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 64]

481—944.1(157) 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 barbering and cosmetology arts and sciences.

“*Continuing education*” means planned, organized learning acts acquired during licensure 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 completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*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 or entity licensed to practice pursuant to Iowa Code chapter 157 and 481—Chapters 940 through 946.

“*Practice discipline*” means the practice of electrology, esthetics, nail technology, or barbering and cosmetology as recognized by the board of barbering and cosmetology arts and sciences.

“*Prescribed practice*” means an area of specialty certified by the board within the scope of barbering and cosmetology arts and sciences.

[ARC 7923C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—944.2(157) Continuing education requirements.

944.2(1) The biennial continuing education compliance period shall begin on April 1 of one year and end on March 31 two years later.

944.2(2) Each biennium:

a. A licensee in this state shall be required to complete a minimum of six hours of continuing education that meets the requirements of rule 481—944.3(157,272C). A minimum of four of the six hours shall be in the prescribed practice discipline and a minimum of two of the six hours shall be in the content areas of Iowa barbering and cosmetology law and rules and sanitation. Individuals holding more than one active license shall obtain four hours of continuing education in each prescribed practice discipline and an additional two hours in the content areas of Iowa barbering and cosmetology law and rules and infection control.

b. A licensee who is an instructor of barbering and cosmetology arts and sciences shall obtain six hours in teaching methodology in addition to meeting all continuing education requirements for renewal of the instructor’s practice license. A licensee must comply with all conditions of licensure including obtaining a minimum of two hours each biennium specific to Iowa barbering and cosmetology law and administrative rules as specified in subrule 944.3(2).

c. A licensee currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. The licensee living and practicing in a state that has no continuing education requirement for renewal of a license shall not be required to meet Iowa’s continuing education requirement but shall pay all renewal fees when due.

d. A licensee shall be deemed to have complied with the continuing education requirements of this state during periods that the licensee:

- (1) Serves honorably on active duty in the military services, or
- (2) Is the spouse of an active duty military service person, or

(3) Is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or

(4) Is engaged in active practice and absent from the state, as approved by the board.

944.2(3) 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 any time from the initial licensing until the second license renewal may be used.

944.2(4) 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.

944.2(5) No hours of continuing education shall be carried over into the next biennium. 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.

944.2(6) It is the responsibility of each licensee to finance the cost of continuing education.

944.2(7) Requirements for blow-dry stylists are outlined in Iowa Code section 157.12C.

[ARC 7923C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—944.3(157,272C) Standards.

944.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that 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), sponsor(s);

(2) Number of program contact hours; and

(3) Evidence of successful completion of the course provided by the course sponsor.

944.3(2) *Specific criteria.* The licensee may obtain the minimum continuing education hours of credit outlined in paragraph 944.2(2) "a" by:

a. Attending workshops, trade shows, conferences or symposiums.

b. Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

c. Attending programs on product knowledge, methods and systems. Continuing education shall be directly related to the technique and theory specific to the practice of barbering and cosmetology arts and sciences. No direct selling of products is allowed as part of a continuing education offering.

d. Attending business classes specific to owning or managing an establishment are acceptable. In addition to fulfilling the requirements in rule 481—944.2(157), for each prescribed practice license held by a licensee, the licensee is to complete four hours in each area.

944.3(3) *Specific criteria for providers and sponsors of continuing education.*

a. Continuing education shall be obtained by attending programs that meet the criteria in subrule 944.3(1). Individuals or groups may offer continuing education programs for any prescribed practice within the barbering and cosmetology arts and sciences that meet the criteria in rule 481—944.3(157,272C) offered by or with express sponsorship in advance of delivery by the following organization(s):

(1) Barbering and cosmetology arts and sciences organizations, including:

1. National, state or local associations;

2. Schools and institutes;

3. Textbook publishers.

(2) Universities, colleges or community colleges;

(3) If intense pulsed light (IPL) or microdermabrasion is within the licensee's prescribed practice as outlined in rule 481—940.5(157), manufacturers or institutes of laser technology.

b. A licensee who is a presenter of a continuing education program that meets the criteria in rule 481—944.3(157,272C) may receive credit once per biennium for the initial presentation of the program. The presenter may receive the same number of hours granted the attendees.

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- [Editorial change: IAC Supplement 9/18/24]

◇ Two or more ARCs

CHAPTER 945
DISCIPLINE FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES LICENSEES,
INSTRUCTORS, ESTABLISHMENTS, AND SCHOOLS

[Prior to 7/29/87, Health Department[470] Ch 151]

[Prior to IAC 12/23/92, see 645—Chapter 62]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 65]

481—945.1(157,272C) Definitions.

“*Board*” means the board of barbering and cosmetology arts and sciences.

“*Discipline*” means any sanction the board may impose upon barbering and cosmetology arts and sciences licensees, instructors, blow-dry stylists, establishments, and schools.

“*Licensure*” means the granting of a license to any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 481—Chapters 940 through 946.

[ARC 7924C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—945.2(157,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in 481—Chapter 504 when the board determines that any of the acts or offenses listed in such chapter or in Iowa Code section 147.55 or any of the following have occurred:

945.2(1) Misappropriation of funds.

945.2(2) Failure to return the salon license to the board within 30 days of discontinuance of business under that license.

945.2(3) Permitting an unlicensed employee or person under the licensee’s or the licensed school’s or establishment’s control to perform activities that require a license.

945.2(4) Permitting a licensed person under the licensee’s or the licensed school’s or establishment’s control to practice outside the scope of the person’s license.

945.2(5) A person is determined by the investigator to be providing barbering and cosmetology services and leaving a salon at the time of inspection, which shall be prima facie evidence that an unlicensed person is providing services for which a license is required.

945.2(6) Performing any of those practices coming within the jurisdiction of the board pursuant to Iowa Code chapter 157, with or without compensation, in any place other than a licensed establishment or a licensed school of barbering and cosmetology arts and sciences.

Exception:

A licensee may practice at a location that is not a licensed establishment or school of barbering and cosmetology arts and sciences when:

a. Providing a service authorized under Iowa Code section 157.4 (Temporary Permits).

b. Providing a service under rule 481—943.17(157), “Events and services provided outside of a licensed establishment” (Iowa Code section 157.13(1) “a”).

c. Extenuating circumstances related to the physical or mental disability or death of a customer prevent the customer from seeking services at the licensed establishment or school.

[ARC 7924C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

481—945.3(157,272C) Unlawful practices. Practices by an unlicensed person or establishment that are subject to civil penalties include, but are not limited to:

945.3(1) Acts or practices by unlicensed persons that require licensure to practice barbering and cosmetology arts and sciences under Iowa Code chapter 157.

945.3(2) Acts or practices by unlicensed establishments that require licensure as an establishment or school of barbering and cosmetology arts and sciences under Iowa Code chapter 157.

[ARC 7924C, IAB 5/1/24, effective 7/1/24; Editorial change: IAC Supplement 9/18/24]

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CHAPTER 946
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 66]

481—946.1(17A,272C) Board of barbering and cosmetology arts and sciences adoption of uniform and model rules. The board hereby adopts by reference the following:

946.1(1) to **946.1(9)** Reserved.

946.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

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CHAPTERS 947 to 960
Reserved

BOARD OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 961

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 361]

481—961.1(154E) Definitions. For purposes of these rules, the following definitions will apply:

“Active interpreter or transliterator services” means the actual time spent personally providing interpreting or transliterating services or providing interpreting or transliterating services through videoconferencing or remotely. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting will not be included in the time spent personally providing interpreting or transliterating services.

“Active license” means a license that is current and has not expired.

“Board” means the board of sign language interpreters and transliterators.

“Direct supervision of a temporary license holder” means monitoring of interpreting or transliterating services while personally observing the temporary license holder providing those services, as outlined in paragraphs 961.3(4) “b” and “c.”

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period.

“Licensee” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

“Reactivate” or *“reactivation”* means the process as outlined in rule 481—961.9(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in rule 481—506.31(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.

“Supervisor” means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 961.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

[ARC 7829C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—961.2(154E) Requirements for licensure.

961.2(1) The following criteria will apply to licensure:

- a. Applicants will submit a completed online licensure application and pay the nonrefundable fee; and
- b. Applicants will provide proof of one of the following:
 - (1) Passed the National Association of the Deaf/Registry of Interpreters for the Deaf (NAD/RID) National Interpreter Certification (NIC) examination after November 30, 2011; or
 - (2) Passed one of the following examinations administered by the Registry of Interpreters for the Deaf (RID):
 1. Oral Transliteration Certificate (OTC); or
 2. Certified Deaf Interpreter (CDI); or
 - (3) Passed the Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above after December 31, 1999; or
 - (4) Passed the Cued Language Transliterator National Certification Examination (CLTNCE) administered by The National Certifying Body for Cued Language Translitterators; or
 - (5) Currently holds one of the following NAD/RID certifications awarded through November 30, 2011, by the National Council on Interpreting (NCI):
 1. National Interpreter Certification (NIC); or
 2. National Interpreter Certification Advanced (NIC Advanced); or
 3. National Interpreter Certification Master (NIC Master); or
 - (6) Currently holds one of the following certifications previously awarded by the RID:
 1. Certificate of Interpretation (CI); or
 2. Certificate of Transliteration (CT); or
 3. Certificate of Interpretation and Certificate of Transliteration (CI and CT); or
 4. Interpretation Certificate/Transliteration Certificate (IC/TC); or
 5. Comprehensive Skills Certificate (CSC); or

(7) Currently holds one of the following certifications previously awarded by the National Association of the Deaf (NAD):

1. NAD III (Generalist); or
2. NAD IV (Advanced); or
3. NAD V (Master); or

(8) Currently holds an advanced or master certification awarded by the Board for Evaluation of Interpreters (BEI).

961.2(2) Licensees who were issued their licenses within six months prior to the renewal will not be required to renew their licenses until the renewal cycle two years later.

a. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 481—501.2(272C).

b. An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification directly 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.

[ARC 7829C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—961.3(154E) Requirements for temporary license.

961.3(1) An applicant who has not successfully completed one of the board-approved examinations or does not hold an approved certification set forth in paragraph 961.2(1)“d” will provide verification the applicant has passed one of the following:

- a.* The written portion of the Registry of Interpreters for the Deaf (RID) examination;
- b.* The written portion of the Board for Evaluation of Interpreters (BEI) examination;
- c.* The written portion of the Educational Interpreter Performance Assessment (EIPA) examination;
- d.* The EIPA prehire examination at the highest recommended level;
- e.* An associate degree or higher from a formal interpreter training program (ITP) with a regionally accredited college or university;
- f.* The American Sign Language Proficiency Interview (ASLPI) at the 2+ level or higher; or
- g.* The Sign Language Proficiency Interview (SLPI) at the intermediate level or higher.

961.3(2) An applicant will submit a written supervisory agreement that complies with the requirements stated in subrule 961.3(4). The temporary license will be valid for two years from the initial issue date and may be renewed once for the immediately following two-year period.

961.3(3) A temporary license holder is only authorized to practice if the following direct supervision requirements are fulfilled:

a. Enter into a written agreement with a supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in paragraphs 961.3(4)“b” and “c.” The supervisor will possess a full, unrestricted sign language interpreter and transliterator license. The agreement will be signed and dated by the temporary license holder and the supervisor; will include the temporary license holder's and supervisor's names, addresses and contact information; and will be provided to the board with the application for a temporary license.

b. Have a supervisor observe the temporary license holder in active practice for no fewer than six bimonthly observation sessions per year for at least 30 minutes each, if the temporary license holder is working alone, or at least 60 minutes each, if the temporary license holder is working in a team interpreting situation.

c. Attend at least six bimonthly advisory sessions with the supervisor per year for the purpose of discussing the supervisor's suggestions for the temporary license holder's professional skill development based on the observation sessions.

d. Maintain an event log documenting the date, time, length and setting of each observation session and advisory session. This event log will be submitted with the temporary license holder's renewal application.

e. Ensure that the supervisor attends each of the observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

f. If the replacement of a supervisor becomes necessary, develop a new written agreement with the new supervisor.

g. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

961.3(4) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subrule 961.3(4) is obligated to report to the board an interpreter or transliterator temporary license holder who is not complying with direct supervision requirements or who is not practicing in compliance with Iowa law and rules, including but not limited to Iowa Code chapter 154E and 481—Chapters 961 through 964.

[ARC 7829C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—961.4(154E) Licensure by endorsement.

961.4(1) An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction will 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:

- a.* Meets the requirements of rule 481—961.2(154E);
- b.* Shows evidence of licensure requirements that are similar to those required in Iowa; and
- c.* Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board.

961.4(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7829C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—961.5(154E) License renewal.

961.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator will begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration.

961.5(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 date two years later.

961.5(3) A licensee applying for renewal will:

a. Meet the continuing education requirements as provided in 481—subrules 962.2(1) and 962.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license 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, and attach verification of completion of continuing education hours on the website before the license expiration date.

961.5(4) A two-year license will be issued after the requirements of the rule are met. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

961.5(5) The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

961.5(6) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 481—subrule 507.18(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

961.5(7) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice until the license is reactivated.

[ARC 7829C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—961.6(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee needs to:

961.6(1) Submit a completed online reactivation application and pay the nonrefundable fee.

961.6(2) If licensed in another jurisdiction, submit a license verification document that discloses disciplinary action taken against the license in the jurisdiction where the applicant was most recently licensed. The document should come directly from that jurisdiction.

961.6(3) Provide verification of current competence to practice sign language interpreting or transliterating 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 from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(3) Verification of a current certification as identified in subrule 961.2(1), or of passing an examination identified in subrule 961.2(1), which was passed after the license became inactive; or

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an 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 from the jurisdiction in which the applicant has been licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; or

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation; and

(3) Verification of a current certification as identified in subrule 961.2(1), or of passing an examination identified in subrule 961.2(1), which was passed after the license became inactive; and

(4) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

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481—961.7(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing sign language interpreting or transliterating in this state.

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CHAPTER 962
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 362]

481—962.1(154E,272C) Definitions. For the purpose of these rules, the following definitions 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 sign language interpreters and transliterators.

“*Continuing education*” means planned, organized learning acts acquired during licensure 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.

“*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 a sign language interpreter or transliterator in the state of Iowa.

[ARC 7830C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—962.2(154E,272C) Continuing education requirements.

962.2(1) Requirements for permanent licensees. The continuing education compliance period runs concurrently with each two-year renewal period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each person who is licensed to practice as a sign language interpreter or transliterator in this state will be required to complete a minimum of 40 hours of continuing education as specified in rule 481—962.3(154E,272C).

962.2(2) Exception for new permanent licensees. A person licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of the license. Thereafter, the new licensee will complete the continuing education requirements as set forth in rule 481—962.3(154E,272C). The licensee may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements.

962.2(3) National Interpreters Certification (NIC) or Registry of Interpreters for the Deaf (RID) Certification. A licensee who provides proof of a current NIC or current RID Certification meets continuing education requirements for that biennium renewal cycle.

962.2(4) Requirements for temporary license holders. The continuing education compliance period runs concurrently with each two-year renewal period beginning on the date of initial licensure. Temporary license holders will be required to obtain 40 hours of continuing education as set forth in rule 481—962.3(154E,272C). The temporary license holder may use only continuing education hours acquired during the current renewal period. Proof of continuing education hours acquired will be submitted with a temporary license renewal application.

962.2(5) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

962.2(6) No hours of continuing education will be carried over into the next renewal period.

962.2(7) The licensee is responsible for the cost of continuing education.

[ARC 7830C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—962.3(154E,272C) Standards.

962.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;
 - b. Is conducted by individuals who have specialized education and training in the subject matter of the program.
- At the time of audit, the board may request the qualifications of presenters;

- c. Fulfills stated program goals, objectives, or both; and
- d. Provides proof of attendance, including:
 - (1) Date, location, course title, and presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

962.3(2) *Specific criteria.*

a. Continuing education will be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing and that are:

(1) Educational activities, including lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Obtained in content areas that conform to the content areas specified in the RID Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of continuing education units (CEUs) required, which is defined in paragraph 962.3(2) "b." RID activity categories of independent study or teaching an academic class are not professional study categories that can be claimed for credit by temporary license holders.

b. Each renewal period, licensees will obtain 40 hours (4 CEUs) of continuing education, including no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board will accept proof of a current NIC or current RID Certification in lieu of proof of the 40 hours of continuing education.

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

1 CEU = 10 continuing education hours

[ARC 7830C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 154E.

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CHAPTER 963
DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 363]

481—963.1(154E) Definition.

“Consumer” means an individual utilizing interpreting services who uses spoken English, American Sign Language, or a manual form of English, and in an interpreting situation or setting, the term “consumer” includes both the deaf or hard-of-hearing individual or individuals and the hearing individual or individuals present in such situation or setting.

[ARC 7831C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

481—963.2(154E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 481—363.2(154E,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504:

963.2(1) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (e.g., acts, knowledge, and practices) that constitutes unethical conduct includes but is not limited to the following:

a. Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s or transliterator’s objectivity, competence, or effectiveness.

b. Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

c. Failure to refrain from providing advice or personal opinions or aligning with one person over another in the course of one’s professional duties.

d. Discriminating against a consumer on the basis of age, sex, race, creed, illness, marital status, political belief, religion, mental or physical disability or diagnosis, sexual orientation, or economic or social status.

e. Failure to inform a consumer when federal or state laws require disclosure of confidential information.

f. Failure to avoid a conflict of interest when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s objectivity, competence, or effectiveness; or failure to disclose to a consumer an actual or perceived conflict of interest.

g. Failure to present a professional appearance that is not visually distracting and is appropriate to the setting.

h. Failure by a temporary license holder to comply with the requirements of 481—subrule 961.2(6).

963.2(2) Reserved.

[ARC 7831C, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 964
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 364]

481—964.1(17A,272C) Board of sign language interpreters and transliterators adoption of uniform and model rules. The board hereby adopts by reference the following:

964.1(1) to **964.1(9)** Reserved.

964.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

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CHAPTERS 965 to 979
Reserved

BOARD OF NURSING HOME ADMINISTRATORS

CHAPTER 980

LICENSURE OF NURSING HOME ADMINISTRATORS

[Prior to 8/24/88, see Nursing Home Administrators Board of Examiners[600], Ch 2]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 141]

481—980.1(155) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Administrator*” means a licensed nursing home administrator.

“*Board*” means the board of nursing home administrators.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*HSE*” means a Health Services Executive as designated by the National Association of Boards of Examiners of Long Term Care Administrators.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a nursing home administrator in the state of Iowa.

“*License expiration date*” means December 31 of odd-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice nursing home administration to an applicant who is or has been licensed in another state.

“*NAB*” means National Association of Boards of Examiners of Long Term Care Administrators.

“*Preceptor*” means a person who is currently licensed as a nursing home administrator and is approved by the department to supervise a person in a mentoring or administrator training program.

“*Provisional license*” means a license issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 481—980.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 481—506.31(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.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.2(155) Requirements for licensure. The following criteria shall apply to licensure:

980.2(1) Submit a completed online application and pay the nonrefundable licensure fee specified in rule 645—5.10(147,155);

980.2(2) Provide verification of certification as an HSE through NAB; or

980.2(3) Provide verification of the following:

a. Transcripts verifying a baccalaureate or postbaccalaureate degree sent directly from an accredited college or university;

b. Passing score on all required national NAB examinations and meeting all other licensure requirements to be approved to take all required national NAB examinations;

c. Completion of one of the following:

(1) Administrator training program;

(2) Practicum in long-term health care completed through an accredited college or university; or

(3) 2,080 hours of long-term health care administration or health-care-related experience in a nursing home may be approved by the board.

980.2(4) An applicant who has been licensed in another state will provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if it provides:

a. Licensee’s name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the licensee.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.3(147,155) Foreign-trained applicants. Foreign-trained nursing home administrators will:

980.3(1) Provide an equivalency evaluation of their educational credentials by International Educational Research Foundation, Inc., Credentials Evaluation Service. A candidate will be responsible for the expense of the curriculum evaluation.

980.3(2) Provide a copy of the certificate or diploma awarded to the applicant from a nursing home administration program in the country in which the applicant was educated.

980.3(3) Provide satisfactory evidence of completion of administrator training program, practicum or 2,080 hours of work experience in long-term health care administration.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.4(155) Preceptor qualifications. Preceptor qualifications are as follows:

980.4(1) Current licensure and at least two years of experience as a nursing home administrator.

980.4(2) Completion of a preceptor training course prior to the preceptorship.

980.4(3) Preceptor has not had the preceptor's nursing home administrator license disciplined, limited, suspended, or placed on probation during the one year immediately prior to the approval to act as a preceptor.

980.4(4) Is not related to the training administrator.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.5(155) Provisional license. A provisional license may be issued to an administrator appointed on a temporary basis to perform the duties of a nursing home administrator. A provisional license is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed 12 months in an entire career. The 12 months in service are not required to be consecutive; however, a new application is required for each appointment period. It is the responsibility of the approved provisional administrator to maintain documentation of the actual dates the administrator serves in that capacity.

980.5(1) The limited circumstances under which the request for a provisional appointment will be granted include the inability of the licensed administrator to perform the administrator's duties, the death of the licensed administrator, or circumstances that prevent the immediate transfer of the licensed administrator's duties to another licensed administrator. A provisional license will not be issued to a licensed nursing home administrator.

980.5(2) Application for a provisional license shall be in writing on forms prescribed by the board. Applicants will meet the following minimum qualifications:

a. Be at least 18 years of age.

b. Be employed on a full-time basis of no less than 40 hours per week to perform the duties of the nursing home administrator.

c. Be knowledgeable about the nursing home administrator's domains of practice, including resident care, human resources, finance, physical environment, and leadership and management.

d. Be without a history of unprofessional conduct or denial of or disciplinary action against a license to practice nursing home administration or any other profession by any lawful licensing authority for reasons outlined in 481—Chapter 982.

e. Provide evidence to establish that the provisional appointment will not exceed the lifetime maximum period of 12 calendar months in duration. For any period in which the applicant previously served as a provisional administrator, written employment verification or a written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.

f. Provide evidence that the provisional appointment complies with the requirements in 481—subrule 58.8(4). A written attestation of the facility owner, chief operating officer, or board officer will satisfy this requirement.

980.5(3) Applications for an extension of the time period for the provisional appointment within the same facility do not require the payment of an additional fee, as long as all other requirements stated in this rule are met.

980.5(4) The board expressly reserves the right to withdraw approval of a provisional appointment. Withdrawal of approval will be based on information or circumstances warranting such action. The provisional administrator will be notified of the withdrawal of approval in writing by certified mail.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.6(155) Licensure by endorsement.

980.6(1) An applicant who has been a licensed nursing home administrator under the laws of another jurisdiction will 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:

a. Meets the requirements of rule 481—980.2(155).

b. Provides evidence of an active license as a nursing home administrator for at least two years just prior to application, or meets the qualifications outlined in rule 481—980.4(155).

980.6(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.7(147,155) License renewal.

980.7(1) The biennial license renewal period for a license to practice nursing home administration will begin on January 1 of each even-numbered year and end on December 31 of the next odd-numbered year. All licensees will renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration.

980.7(2) An individual who was issued a license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

980.7(3) A licensee applying for renewal shall:

a. Meet the continuing education requirements of rule 481—981.2(272C) and the mandatory reporting requirements of subrule 980.9(8). 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.

980.7(4) A two-year license will be issued after the requirements of this rule are met. If 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.

980.7(5) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 481—subrule 507.10(3). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

980.7(6) Inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a nursing home administrator in Iowa until the license is reactivated.

980.7(7) Licensees will display their license certificate and proof of active licensure will be in a conspicuous public place at the primary site of practice.

980.7(8) Mandatory reporter training requirements.

a. A licensee who examines, attends, counsels, or treats children, dependent adults, or both in the scope of the licensee's professional practice will complete the applicable department of health and human services training relating to the identification and reporting of child abuse, dependent adult abuse, or both. Written documentation of training completion should be maintained for three years. The training is not required if the licensee is engaged in active duty military service or holds a waiver demonstrating a hardship in complying with these training requirements.

b. The board may select licensees for audit of compliance with the requirements in subrule 980.7(8).

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.8(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

980.8(1) Submit a completed online reactivation application and pay the nonrefundable application fee.

980.8(2) Provide verification of current competence to practice as a nursing home administrator by satisfying the following criteria:

a. Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. 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

b. Verification of completion of 40 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—980.9(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive board-approved reinstatement of the license and must apply for and be granted reactivation of the license prior to practicing as a nursing home administrator in this state.

[ARC 7971C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

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◇ Two or more ARCs

¹ Effective date of rule 600—2.7 delayed by the Administrative Rules Review Committee 70 days.

- ² Effective date of 645—subrule 141.3(2), delayed until adjournment of the 1996 General Assembly by the Administrative Rules Review Committee at its meeting held October 10, 1995.
- ³ March 28, 2012, effective date of 141.9(1) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 981
CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

[Prior to 8/24/88, see Nursing Home Administrators Board of Examiners [600], Ch 3]

[Prior to 9/13/95, see 645—Chapter 142]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 143]

481—981.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

“*Active license*” means the license 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.

“*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.

“*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 a nursing home administrator in the state of Iowa.

“*National Continuing Education Review Service (NCERS)*” means the continuing education review service operated by the National Association of Boards of Examiners for Nursing Home Administrators.

[ARC 7972C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—981.2(272C) Continuing education requirements.

981.2(1) The biennial continuing education compliance period will extend for a two-year period beginning on January 1 of each even-numbered year and ending on December 31 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state will be required to complete a minimum of 40 hours of continuing education. Continuing education hours do not carry over.

981.2(2) Requirements of new licensees. Those persons licensed for the first time will 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.

981.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity.

981.2(4) The licensee is responsible for the cost of continuing education.

[ARC 7972C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—981.3(155,272C) Standards.

981.3(1) *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Is an organized program of learning fundamental to the practice of the profession that contributes directly to the professional competency of the licensee;
- b. Is conducted by individuals who have specialized education, training and experience in the subject matter of the program;
- c. Fulfills stated program goals, objectives, or both; and
- d. Provides proof of attendance including:
 - (1) Date(s), location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

981.3(2) *Specific criteria.* Licensees may obtain continuing education hours of credit by:

a. Participating in the continuing education programs approved by the National Continuing Education Review Service (NCERS).

b. Academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

c. Attendance at or participation in a program or course that meets the requirements in subrule 981.3(1).

d. Making presentations; conducting research; producing publications; preparing new courses; participating in home study courses; attending electronically transmitted courses; and attending workshops, conferences, or symposiums.

e. Self-study coursework that meets the criteria set forth in these rules. Continuing education credit equivalent for self-study is as follows:

180 minutes of self-study work = 1 continuing education hour

The maximum number of hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means that is not directly sponsored by and supervised by an accredited postsecondary college or university or NCERS, is eight hours.

[ARC 7972C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

481—981.4(155,272C) Exemptions. A licensee is exempt from the continuing education requirement when that person:

1. Served honorably on active duty in the military service;
2. Resided in another state with continuing education requirements that the applicant met;
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Has a disability, illness, or primary caregiver status requiring an extension of time or exemption upon approval by the board office.

[ARC 7972C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

These rules are intended to implement Iowa Code section 272C.2 and chapter 155.

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[Editorial change: IAC Supplement 9/18/24]

CHAPTER 982
DISCIPLINE FOR NURSING HOME ADMINISTRATORS

[Prior to 5/30/01, see 645—Chapter 141]

[Prior to 9/18/24, see Professional Licensure Division[645] Ch 144]

481—982.1(155,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 481—504.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 481—Chapter 504.

982.1(1) Any falsification or misrepresentation contained in any report or document attesting to the facts, conditions and activities of the internship or work experience and submitted by the applicant, administrator/preceptor or other participants may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to the imposition of fines and any other penalties provided by law.

982.1(2) Any misappropriation of resident funds or facility funds may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to the imposition of fines and any other penalties provided by law.

This rule is intended to implement Iowa Code chapters 147, 155 and 272C.

[ARC 7973C, IAB 5/15/24, effective 6/19/24; Editorial change: IAC Supplement 9/18/24]

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[Editorial change: IAC Supplement 9/18/24]

¹ March 28, 2012, effective date of 144.2(13) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 983
ADOPTION OF UNIFORM AND MODEL RULES
[Prior to 9/18/24, see Professional Licensure Division[645] Ch 145]

481—983.1(17A,272C) Board of nursing home administrators adoption of uniform and model rules. The board hereby adopts by reference the following:

983.1(1) to **983.1(9)** Reserved.

983.1(10) Model rules for licensee review committee, 481—Chapter 505.

This rule is intended to implement Iowa Code chapter 272C.

[ARC 8148C, IAB 7/24/24, effective 8/28/24; Editorial change: IAC Supplement 9/18/24]

[Filed ARC 8148C (Notice ARC 7296C, IAB 1/24/24), IAB 7/24/24, effective 8/28/24]

[Editorial change: IAC Supplement 9/18/24]

CHAPTERS 984 to 2201
Reserved

CHAPTER 2202
CERTIFICATE OF NEED PROGRAM

[Prior to 7/29/87, Health Department[470] Ch 202]
[Prior to 9/4/24, see Public Health Department[641] Ch 202]

481—2202.1(10A) Definitions. For purposes of this chapter, the following definitions apply:

“Acute care category of bed usage,” as the term applies in Iowa Code section 10A.713(2) *“k,”* is the same as the acute care categories listed in the state survey section of the American Hospital Association Annual Survey of Hospitals.

“Any expenditure in excess of five hundred thousand dollars,” as defined in Iowa Code section 10A.711(18) *“e,”* means new capital expenditures necessary to operate the service for a year.

“Any mobile health service with a value in excess of one million five hundred thousand dollars,” as defined in Iowa Code section 10A.711(18) *“l,”* means the value of all equipment used to provide the service, including the trailer. The party providing the equipment is the applicant regardless of the location of that party.

“Appropriate geographic service area,” as the term applies to defining affected persons in Iowa Code section 10A.711(1) *“c,”* is defined as follows:

1. For applications regarding hospitals, hospitals located in the same county and in Iowa counties contiguous to the county wherein the applicant hospital’s proposed project will be located.
2. For applications regarding health care facilities, other health care facilities located in the same county and in Iowa counties contiguous to the county wherein the applicant’s proposed health care facility will be located.
3. For applications sponsored by other than the hospitals or health care facilities specified in paragraphs “1” and “2,” those providers within the same county who offer similar service or might logically be viewed as potential providers of such service.

“Bed capacity” is defined as follows:

1. For hospitals, bed capacity is defined as the total facility licensed beds as reported on the state survey section of the American Hospital Association Annual Survey of Hospitals.
2. For health care facilities, bed capacity is defined as a facility’s licensed bed capacity according to the department of inspections, appeals, and licensing.

“Cardiac catheterization service,” as the term applies to a new or changed institutional health service in Iowa Code section 10A.711(18) *“m”*(1), means the initiation or expansion of this service.

“Consumers served by a new institutional health service” means those consumers residing in the service area as determined by the department.

“Long-term (acute) care hospital,” for purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system (LTCH-PPS) hospital in accordance with 42 CFR Part 412 as amended to March 29, 1985.

“Open heart surgical service,” as the term applies to new or changed institutional health service in Iowa Code section 10A.711(18) *“m”*(2), means the initiation or expansion of this service.

“Organ transplantation service,” as the term applies to a new or changed institutional health service in Iowa Code section 10A.711(18) *“m”*(3), means the initiation or expansion of this service. Each type of organ transplant shall be considered separately.

“Permanent change in bed capacity of an institutional health facility” includes but is not limited to the following:

1. A conversion of a long-term acute care hospital, a rehabilitation hospital or a psychiatric hospital as defined by federal regulations to a general acute care hospital or to a different type of specialty hospital.
2. A hospital that has deleted beds pursuant to Iowa Code section 10A.713(2) *“g”* for the purpose of receiving designation as a critical access hospital reestablishes the deleted beds at a later time, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.

“Physical facility,” as the term applies in Iowa Code section 10A.711(18) *“f,”* means a separately licensed facility.

“Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers.” The meaning of this term as used in Iowa Code section 10A.713(2) *“a”* is determined by looking at factors that include but are not limited to:

1. The type of health care service delivered.
2. The control and supervision of medical judgment in the care of and treatment of patients.
3. The control and supervision of professional assistants, including nurses, physician assistants, and technicians.
4. The ownership and maintenance of medical records of patients.

This term excludes an ambulatory surgical center as defined in Iowa Code section 135R.1.

“Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment,” as the term applies to new or changed institutional health service in Iowa Code section 10A.711(18) “m”(4), means the initiation or expansion of this service.

“Rehabilitation hospital,” for the purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as an inpatient rehabilitation facility-prospective payment system (IRF-PPS) hospital in accordance with 42 CFR Part 412.23(b), 412.25 or 412.29 as amended to March 29, 1985.

“Relocation of an institutional health facility,” as the term applies to new or changed institutional health service in Iowa Code section 10A.711(18) “b,” means the replacement of a facility located in one county with a facility located in another county.

“Value in excess of one million five hundred thousand dollars,” as used in Iowa Code section 10A.711(18) “g,” “h,” “i” and “j,” means the value of the equipment including any applicable sales tax, delivery charge and installation charge. With respect to the initiation of radiation therapy services applying ionizing radiation for the treatment of malignant disease using the megavoltage external beam equipment, the term includes the cost of constructing a vault.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.2(10A) Letter of intent.

2202.2(1) Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service will electronically submit a letter of intent meeting the criteria noted in Iowa Code section 10A.715(1) and containing the project’s estimated cost (site costs, land improvements, facility costs, movable equipment and financing costs, and any applicable sales tax for movable equipment, any applicable delivery charge for movable equipment, and any applicable installation charge for movable equipment).

2202.2(2) The department will make available on the certificate of need web page all criteria and standards that are pertinent to an application.

2202.2(3) A letter of intent received by the department is valid for a period of one year from the date of receipt by the department. The sponsor may renew the validity of a letter of intent by providing written notification to the department prior to the one-year expiration date.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.3(10A) Determination of reviewability. A sponsor of a proposed project may submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

2202.3(1) The request should include sufficient details of the proposed project and cite the sections of the Iowa Code that the sponsor relies upon to assert the project is not reviewable.

2202.3(2) Upon receipt of a written request from the sponsor of a project, the department will determine if a proposed project requires a certificate of need under Iowa Code sections 10A.711 through 10A.729. The department may request additional information about the project to make the determination.

a. If it is determined that a certificate of need is required, the sponsor will be notified by the department and the request for nonreviewability will be considered the letter of intent for purposes of 2202.2(2).

b. If it is determined that a certificate of need is not required, the sponsor will be notified by the department and the determination of nonreviewability will be placed on the next agenda of the state health facilities council for consideration.

c. The notification to the sponsor of the results of the department’s review of the request will include specific Iowa Code citations relied upon to support the determination.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.4(10A) Submission of application.

2202.4(1) Application form.

a. A sponsor of a proposed project for a new or changed institutional health service will submit to the department an application for certificate of need by using the appropriate application form found on the certificate of need web page. All information requested in the application form will be required in the absence of a waiver by the department.

b. An original application and all attachments shall be submitted via electronic mail.

c. The department will establish and maintain electronic files on each application.

2202.4(2) Application fee. The application fee specified in Iowa Code section 10A.713(1) is based on the total cost of the project, including site costs, land improvements, facility costs, movable equipment, and financing costs.

a. The fee for leased or donated new institutional health services is calculated in the same manner as if the new institutional health services were purchased.

- (1) The leased equipment fee is based on total value of the lease, plus sales tax, delivery and installation.
- (2) The lease of space includes the cost of a one-year-lease payment for the space, in addition to other costs associated with the project.
- (3) Financing costs are not applicable on leases or cash purchases.
- b. The application fee will be refunded by the department for any application that is voluntarily withdrawn from the review process in the amounts specified in Iowa Code section 10A.713(1).
- c. For purposes of this subrule and Iowa Code section 10A.713(1), the term “submission” means the day the application is received by the department.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.5(10A) Organizational procedures.

- 2202.5(1)** The presence of three members of the council shall constitute a quorum.
- 2202.5(2)** The chair and all other council members present will cast votes or abstain, as the case may be, on all council action. No proxy votes shall be allowed.
- 2202.5(3)** A vote of a majority of those present will be necessary to take action on any motion before the council. A tie vote means no action on the motion.
- 2202.5(4)** The council will, at the first meeting after July 1 of each odd-numbered year, elect a vice-chair to perform the duties of the chair in the chair’s absence, when the chair has a conflict of interest or when the chair so directs.
- 2202.5(5)** A council member will refrain from participating in an application review process if the member:
- a. Has a personal bias or prejudice concerning the applicant;
 - b. Has acted as counsel to the applicant or a competitor of the applicant in the same or adjoining county within the past two years;
 - c. Has a financial interest in the outcome of the application process or any other significant personal interest that could be substantially affected by the outcome of the case;
 - d. Has a spouse or relative within the third degree of relationship that (1) is affiliated with or represents the applicant or a competitor of the applicant in the same or adjoining county; (2) has a known financial or significant personal interest that could be substantially affected by the outcome of the application process; or (3) is likely to testify on behalf of the applicant or an affected person at public hearing; or
 - e. Has any other legally sufficient cause to refrain from participating in the application review process.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.6(10A) Public hearing on application. Public hearings conducted pursuant to Iowa Code section 10A.716(3)“b” are not contested cases. Judicial review pursuant to Iowa Code section 17A.19 of final agency decisions under Iowa Code section 10A.719 will be treated as other agency action.

- 2202.6(1)** The council will use the following meeting format:
- a. Announcement of application under review.
 - b. Presentation of department report.
 - c. Applicant presentation.
 - d. Affected persons’ presentation.
 - e. Applicant’s rebuttal.
 - f. Council discussion, motion and final decision.
- 2202.6(2)** The notice of an accepted application issued pursuant to Iowa Code section 10A.716(2) will inform the applicant and affected persons of the deadlines for the electronic submission to the department of written statements or other materials. These deadlines will also be posted on the certificate of need web page.
- Written submissions received by the department after the deadlines established in this notice will not be considered by the department or the council unless submitted at the public hearing solely to support oral testimony or upon a showing of good cause.
- 2202.6(3)** The applicant, affected persons, or their designated representatives will be given the opportunity to make oral presentations to the council. Other interested persons may be given the opportunity to make oral presentations to the council.
- 2202.6(4)** Oral testimony that simply duplicates material received in writing will not be heard. The applicant and affected persons will present only one witness for each issue raised unless permission is requested and granted by the chair.

2202.6(5) All questions to an applicant or affected person presenting oral testimony will be directed from the council or council staff unless permission is requested and granted by the chair. Persons making oral presentations to the council are not expected to be placed under oath.

2202.6(6) The council may designate technical consultants or experts to assist in its activities as defined by the council.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.7(10A) Summary review. Pursuant to Iowa Code section 10A.717, an applicant requesting a summary review will abide by the following procedures:

2202.7(1) Electronically submit a written request for summary review and a copy of the application and all attachments. The applicant is not required to submit a letter of intent pursuant to Iowa Code section 10A.715 prior to submitting a written request for a summary review.

2202.7(2) The eligibility of an application for summary review pursuant to Iowa Code section 10A.717 does not mandate or require such review. The department will make the decision as to whether an application will be reviewed in the summary review process.

2202.7(3) Upon receipt of a written request for summary review, an application, and the fee required by Iowa Code section 10A.713(1), the department will notify the applicant in writing within 15 calendar days if the application is complete and if a summary review will be granted.

2202.7(4) If an application is deemed incomplete, the department will state specifically in writing what information is needed to make the application complete.

2202.7(5) If the department notifies the applicant that a summary review will not be performed, this decision is binding on the applicant and the application will be entered into the formal review process on the date of written notice that such application will not be reviewed summarily.

2202.7(6) A summary review of an application for a certificate of need will be completed within 60 calendar days of the acceptance of an application by the department.

2202.7(7) At any time during the summary review process, an application may be withdrawn without prejudice from the process. The applicant may then submit the application for a formal 90-day review.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.8(10A) Extension of review time.

2202.8(1) A formal review of an application for a certificate of need pursuant to Iowa Code section 10A.716 may be extended by the department on the basis of any of the following criteria:

- a. In order to review competing applications simultaneously;
- b. In the case of technologically innovative equipment, to obtain additional information necessary to evaluate the proposal. The department will specify in writing such additional information as necessary;
- c. At the request of the applicant;
- d. At the request of at least two members of the state health facilities council in order to allow additional time for deliberation on all evidence present. The council will specify the time of the delay and the date on which the final decision will be rendered.

2202.8(2) An extension by the department made pursuant to 2202.8(1) will in no case be more than 60 calendar days beyond the time a decision is required under Iowa Code section 10A.719 unless the applicant and department agree.

2202.8(3) Where none of the provisions of 2202.8(1) are applicable and where an application will be automatically denied because of the expiration of time required by Iowa Code section 10A.719 for the issuance of a written decision by the council, the department will notify the applicant of the likelihood of an automatic denial and will ask the applicant to request in writing an extension of the review time. Where an extension is so requested, the application will be heard at the next regularly scheduled meeting of the council or at any time agreeable to the applicant and the department.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.9(10A) Rehearing of certificate of need decision.

2202.9(1) The applicant or any affected person who has participated or sought unsuccessfully to participate in the formal review procedure prescribed in Iowa Code section 10A.716 may, for good cause shown, file an application for rehearing in writing with the department stating the specific grounds therefor and the relief sought, within 20 calendar days after the date of the issuance of the final decision on an application for certificate of need.

2202.9(2) Grounds for rehearing include but are not limited to:

- a. New significant, relevant information that was unavailable at the date of the hearing;

- b. Significant changes in factors or circumstances relied upon by the council in reaching its decision;
- c. Demonstration that the council has materially failed to follow its adopted procedures in reaching its decision;

or

- d. Such other bases as the council determines constitute good cause.

2202.9(3) An application for rehearing is deemed to have been denied unless the council grants the application in writing within 20 calendar days after its filing.

2202.9(4) If the application for rehearing is granted, the council may issue an order modifying the initial final order, or may set the matter for consideration at a subsequent meeting date. If public hearing is granted on the application for rehearing, notice will be provided ten calendar days prior to hearing to the person applying for rehearing, the applicant and other affected persons upon request pursuant to 481—2202.10(10A).

2202.9(5) The council will issue the final decision on rehearing, stating the basis for its decision, within 30 calendar days after the application for rehearing was granted or 30 calendar days after public hearing on rehearing, whichever is later.

2202.9(6) If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the manner provided by Iowa Code chapter 17A. A request for rehearing is not required prior to appeal under Iowa Code section 17A.19.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.10(10A) Status reports to affected persons. Affected persons are entitled to status reports from the department while a formal application review is in progress pursuant to Iowa Code section 10A.718. The department will maintain a log of all requests for written status reports by affected persons. Affected persons who request written status reports will submit an electronic request, identifying the specific information requested, which may include notification of the council's final decision, any application for rehearing, or the filing of a petition for judicial review. The formal process does not preclude informal contacts with department staff for verbal status reports. Printed copies of the council's final decision, an application for rehearing, a petition for judicial review, or any other public record will be provided upon request.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.11(10A) Finality. The certificate of need application process is continuous beginning with submission of a letter of intent or request for waiver of a letter of intent through issuance of a final decision by the council subject to judicial review under Iowa Code chapter 17A.

2202.11(1) The following stages of the process are intermediate and subject to judicial review only to the extent they meet criteria for intermediate review under Iowa Code section 17A.19:

- a. A decision by the department pursuant to 481—2202.3(10A) that a proposed project does not require a certificate of need;
- b. A decision by the department to waive submission of the letter of intent and substitute summary review; and
- c. The rejection of an application by the department that fails to provide all information required under Iowa Code section 10A.713(1).

2202.11(2) The following stages of the process are final decisions subject to judicial review as final agency action under Iowa Code section 17A.19:

- a. A decision by the department to disallow summary review;
- b. A decision by the council that a proposed project does not require a certificate of need;
- c. A decision by the council to approve or deny an application;
- d. The council's final ruling on an application for rehearing; and
- e. A decision by the council to revoke a certificate of need pursuant to 481—2202.13(10A).

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.12(10A) Project progress reports.

2202.12(1) The sponsor of an approved application will submit a progress report using the form available on the certificate of need web page six months after approval at hearing.

2202.12(2) Progress reports shall fully identify the project and indicate the current status of the project in descriptive terms. The reports should also reflect an amended project schedule if necessary.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.13(10A) Request for extension of certificate.

2202.13(1) A request by the applicant for an extension of a certificate of need should be filed with the department using the form available on the certificate of need web page no later than 30 days prior to the expiration of the certificate of need.

2202.13(2) A request for extension should fully identify the project and indicate the current status of the project in descriptive terms.

2202.13(3) Any affected person has the right to submit to the department in writing, or orally at the council meeting at which the extension request is considered, information that may be relevant to the question of granting an extension.

2202.13(4) When an extension has been requested, the council will approve or deny the request at a meeting of the council preceding the expiration of the certification. The certificate of need may be revoked by the council at the end of the certification period for insufficient progress in developing the project.

2202.13(5) If the extension is denied, the applicant has the right to appeal under the provisions of Iowa Code section 10A.720.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.14(10A) Application changes after approval.

2202.14(1) Once a project has been approved by the council, no changes that vary from or alter the number of approved beds, the approved services or the approved cost by an amount indicated in 2202.14(2) may be made unless requested by the applicant and approved by the council. Requests should be made in writing and filed with the department electronically.

2202.14(2) An increase in the actual cost of the project over and above that originally approved will automatically generate review by the council if the increase exceeds the originally approved amount by:

- a. Fifteen percent for projects up to \$999,999.99;
- b. Twelve percent for projects from \$1,000,000.00 to \$4,999,999.99;
- c. Eight percent for projects \$5,000,000.00 and over.

An increase in the approved cost that falls below the above percentages will be reported to the department.

2202.14(3) Failure to notify and receive permission of the council to change the project as originally approved may result in the imposition of sanctions provided in Iowa Code section 10A.723. The council may make a recommendation to the department regarding the imposition of a sanction and the amount of the fine to be imposed.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.15(10A) Sanctions. Hearings to determine class I or class II violations pursuant to Iowa Code section 10A.723 will be conducted in accordance with the department's procedural rules for contested cases found at 481—Chapter 9.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2202.16(10A) Reporting requirements. For the purposes of the annual reports and data compilation required in Iowa Code sections 10A.725 and 10A.727, the department will utilize the AHA Annual Survey of Hospitals with the state survey addendum for hospitals and the cost reports for health care facilities submitted to the Medicaid enterprise of the department of health and human services.

[ARC 7932C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

These rules are intended to implement Iowa Code sections 10A.711 through 10A.729.

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[Editorial change: IAC Supplement 9/4/24]

◇ Two or more ARCs

CHAPTER 2203
STANDARDS FOR CERTIFICATE OF NEED REVIEW

[Prior to 7/29/87, Health Department[470] Ch 203]

[Prior to 9/4/24, see Public Health Department[641] Ch 203]

481—2203.1 Reserved.

481—2203.2(10A) Cardiac catheterization and cardiovascular surgery standards.

2203.2(1) *Purpose and scope.*

a. These standards are measures of some of those criteria found in Iowa Code sections 10A.714(1)“a” through “q” and 10A.714(3). Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these cardiac catheterization and cardiovascular surgery standards include:

- (1) Proposals to commence or expand capacity to perform cardiac catheterization.
- (2) Proposals to add new or replace cardiovascular surgery services.
- (3) Any other applications that relate to cardiac catheterization or cardiovascular surgery.

2203.2(2) *Definitions.*

a. Adult cardiac catheterization laboratory—a diagnostic facility exclusively for intracardiac or coronary artery catheterization on adults.

b. Pediatric cardiac catheterization laboratory—the same as adult cardiac catheterization laboratory, except exclusively for children and infants.

c. Cardiac catheterization—

(1) Intracardiac—a diagnostic study of the heart, pulmonary arteries, or both, in which a small catheter passes through a vein or artery in the neck, leg or arm and advances into the great vessels, the heart or the pulmonary arteries. Through this procedure one can measure pressure within the heart and in adjacent veins and arteries, collect blood samples for blood gas analysis and inject radiopaque material, and visualize cardiac and vessel anatomy. The procedure permits detection of congenital and acquired heart abnormalities, the study of ventricular function, the estimation of the orifice size, the placement of pacemakers, etc. Cardiac catheterization is incomplete without cineangiography, intracardiac pressure measurements, blood gas analysis and the ability to diagnose intracardiac shunts.

(2) Coronary artery catheterization—a diagnostic study of the coronary arteries, in which a small catheter passes through an artery in the leg, neck or arm into a coronary artery orifice. Intravascular pressure measurements are taken, and angiography of the coronary arteries is performed. Catheterization and cineangiography of the left ventricle are an integral part of this procedure.

d. Angiography—

The photographic recording of X-ray or radiologic images of blood vessels, in any part of the body—the heart, the head, the great vessels, the kidney, etc. In the procedure blood vessels are injected with a radiopaque chemical. Immediately following injection, X-rays are employed to image the path of the injected chemical. These X-ray images are then photographically recorded.

e. Angiocardiography—

The recording of moving X-ray images (fluoroscopic images) of the heart and great vessels. After injection of radiopaque chemicals, moving X-rays of the chemical’s flow are projected on a screen called a fluoroscope. Moving pictures (cineangiography) or still pictures in sequence (serialography) may be recorded of the X-ray image.

f. Adult cardiovascular surgery—cardiovascular surgery exclusively for adults.

g. Pediatric cardiovascular surgery—cardiovascular surgery exclusively for infants and children.

h. Cardiovascular surgery—the services associated with and surgery performed for congenital or acquired diseases of the heart, great vessels, or pericardium, including the placement of travenous and epicardial pacemakers.

(1) Open heart surgery—cardiovascular surgery in which an incision of sufficient size is made to allow direct vision of the area. Open heart surgery requires temporary use of a heart-lung (cardiopulmonary bypass) machine, as blood flow through the heart is greatly reduced or stopped altogether.

(2) Coronary artery surgery—surgery to correct inadequate blood flow to the heart using revascularization techniques to bypass significantly obstructed coronary artery lesions.

i. Closed heart surgery—cardiovascular surgery in which a small incision and repairs are made without direct vision of the area.

2203.2(3) *Availability of services.*

a. Minimum utilization—cardiovascular surgery (Iowa Code section 10A.714(1)“c,” “g,” “h”).

(1) Adult cardiovascular surgical programs should project an annual minimum rate of over 200, or no approval will be granted. Higher case loads over 200 per annum are encouraged.

(2) Pediatric cardiovascular surgical units should project a minimum of 100 pediatric heart operations after the first year, at least 75 of which must be open heart procedures.

(3) Combined adult/pediatric cardiovascular surgery units should project the minimum projected annual rates for both adult and pediatric surgery.

(4) Applicants should project utilization of cardiovascular surgery, catheterization and cardiac care units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within the project's service area.

b. Expansions—cardiovascular surgery (Iowa Code section 10A.714(1) "c," "d," "e," "g," "h").

(1) There should be no additional adult cardiovascular surgery units initiated, unless each existing unit within the project's service area is operating at a minimum of 200 open heart surgery cases per year.

(2) There should be no additional pediatric cardiovascular surgery units initiated, unless each existing unit within the project's service area is operating at 100 surgeries per year. If one team serves more than one institution, the numbers for those institutions should be combined.

(3) If the annual utilization of the other cardiovascular surgery units within the area is below the levels noted above, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.

(4) The applicant will demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are generally within two hours' surface travel time for adult services and within three for pediatric services.

c. Minimum utilization—cardiac catheterization (Iowa Code section 10A.714(1) "c," "d," "g," "h").

(1) Adult cardiac catheterization laboratories should be projected to operate at a minimum of 300 catheterizations per annum.

(2) Pediatric catheterization laboratory units should project a minimum of 150 catheterizations annually.

(3) Combined units should meet each of the adult and pediatric standards.

(4) Applicant should project utilization of cardiac catheterization units based upon service area population demographics, current regional or national utilization rates of the service, disease incidence and prevalence rates, current cardiac care treatment modes, and in consideration those adult cardiovascular surgery units currently operating in Iowa, and bordering states within the project's service area.

d. Expansions—cardiac catheterizations (Iowa Code section 10A.714(1) "c," "d," "e," "g," "h").

(1) There should be no additional adult cardiac catheterization unit opened unless the number of studies per year in each existing unit within the project's service area is greater than 300. No additional pediatric unit should be opened unless the number of studies per year in each existing unit within the project's services area is greater than 150.

(2) If the annual utilization of the other cardiovascular surgery units within the area is below the levels noted above, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the level must be demonstrated.

(3) The applicant must demonstrate that an attempt was made to determine with the cooperation of existing providers whether such a reduction would occur. Existing providers of consequence are those within two hours' surface travel time for adults or three for pediatrics.

2203.2(4) Costs.

a. Financial feasibility. (Iowa Code section 10A.714(1) "f," "i," "p") Cardiovascular surgery and catheterization equipment and associated remodeling or construction should be depreciated over a period consistent with generally accepted accounting standards.

b. Cost-effectiveness. Proposed new or replacement cardiac catheterization laboratories cost per catheterization and cardiovascular surgery services estimated costs per surgery should when compared to their peers demonstrate cost-effectiveness.

2203.2(5) Accessibility. (Iowa Code section 10A.714(1) "c," "d")

a. Cardiovascular surgery units and cardiac catheterization labs should meet the needs of the communities that the units and labs are meant to serve.

b. Cardiac catheterization and cardiovascular surgery service should be provided regardless of ability to pay, in consideration of those programs available in the state that serve the medically indigent.

2203.2(6) Quality. (Iowa Code section 10A.714(1) "i," "k")

a. Each surgery unit and cardiac catheterization lab shall demonstrate a reasonable set of criteria that are used in selecting appropriate candidates for surgery and catheterization.

b. Staffing minimums.

(1) The open heart surgery team should minimally consist of:

1. At least two certified or board-eligible cardiovascular surgeons for the first 75 to 130 pediatric open heart surgeries. If pediatric surgery is performed, one surgeon must have special training and experience in surgery for congenital cardiac defects.

2. Board-certified or board-eligible adult or pediatric cardiologist(s). The latter only if pediatric surgery is performed, the former only if adult surgery is performed.

3. Board-certified or board-eligible anesthesiologist with special training in the management of cardiovascular cases' respiratory care.

4. Radiologist trained in the cardiovascular field.

5. Pathologist familiar with cardiac problems.

6. Surgical nursing staff specially trained in heart disease.

7. Cardiopulmonary bypass pump technicians.

8. Other ancillary staff as needed.

(2) Each applicant will document that the proposed surgery unit can be so staffed when completed and operational.

c. Equipment and facilities. The applicant seeking to provide cardiovascular surgery should demonstrate that the following support services will be available:

(1) General X-ray diagnostic facilities and facilities for emergency X-rays on a 24-hour basis.

(2) A cardiac catheterization laboratory or angiography lab available on a 24-hour basis.

(3) A cardiographics laboratory, with facilities for recording the following tests: EKG, vector cardiogram, phonocardiogram, echocardiogram, and exercise stress testing.

(4) A supporting blood bank and hematology laboratory.

(5) A microbiology laboratory.

d. Cardiac catheterization labs serving infants and children should have biplane angiographic equipment, either cineangiocardigraphic or cut film. Pediatric cardiac catheterization labs should be supervised by board-certified or board-eligible pediatric cardiologists; adult cardiac catheterization labs should be supervised by a board-certified or board-eligible adult cardiologist.

2203.2(7) Continuity. (Iowa Code section 10A.714(1)“g,”“h,”“i,”“k”)

a. The applicant should demonstrate that an attempt was made to solicit letters of support from area hospitals and physicians to indicate a community need.

b. The applicant should provide documentation that emergency medical transport services will be available.

c. Institutions providing cardiovascular surgery services should include mechanisms for comprehensive medical followup including adequate medical records exchange.

2203.2(8) Acceptability. (Iowa Code section 10A.714(1)) Facilities with cardiovascular surgery and cardiac catheterization indicate a willingness to observe and respect the rights of patients.

[ARC 7933C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2203.3(10A) Radiation therapy standards.

2203.3(1) Purpose and scope.

a. These standards provide guidelines to assist the council in applying those criteria in Iowa Code sections 10A.714(1)“a” through “r” and 10A.714(3). Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these radiation therapy standards include:

(1) Proposals to commence or expand the kind or capacity of megavoltage radiation therapy services.

(2) Proposals to replace a megavoltage radiation therapy unit.

(3) Any other applications that relate to megavoltage radiation therapy.

2203.3(2) Definitions.

“*Conjoint radiation oncology center*” or “*cancer center*” means a multi-institution, multidisciplinary network to provide radiation therapy for cancer patients. Integration of patient care management, common utilization of personnel and equipment, and a single system of records between center institutions ensures optimal care regardless of entry portal.

“*Dosimetrist*” means a staff member who calculates, verifies, and develops treatment plans for the radiation dose distributions that will be delivered to patients. The dosimetrist is an essential member of the treatment planning team and works closely with radiation oncologists and radiation physicists.

“Megavoltage therapy” means the use of ionizing radiation in excess of one million electron volts. Energies above one million electron volts cause considerably less skin damage, increase depth dose markedly, and result in much less scatter from the therapeutic beam. Megavoltage machines are classified as follows:

1. Electron accelerator. A machine such as a linear accelerator that uses a supply of electrons, which are accelerated into high energy beams. These electron beams are either caused to strike a target resulting in high energy X-ray production or are used themselves as the treatment beam. Electron accelerators generate over one million electron volts.
2. Heavy particle accelerator. A machine such as a cyclotron that produces beams of high energy particles such as protons, neutrons, pions, carbon ions, or other heavy ions with masses greater than that of an electron.
3. Isotope sources (gamma ray teletherapy units).

Cobalt 60 units—emit gamma rays of approximately 1.2 million electron volts.

“Megavoltage therapy unit” means a piece of megavoltage therapeutic radiologic equipment that provides megavoltage therapy.

“New occurrence” means a course of treatment for a new occurrence on a given patient at a given radiation therapy facility. First-time radiation therapy at a new facility is based on each round of treatment.

“Radiation modality” means the method of applying ionizing radiation in the treatment of patients with malignant disease using megavoltage external beam equipment.

“Radiation oncologist” means a physician authorized user trained in accordance with 641—subrule 41.3(5).

“Radiation therapy facility” or *“facility”* means the physical space that houses a megavoltage therapy unit and accompanying support equipment.

“Radiation therapy physicist” means an individual who works closely with radiation oncologists and is responsible for the safe and accurate delivery of radiation to patients. A radiation therapy physicist conducts quality control programs for the equipment and procedures, as well as calibrating the equipment. A radiation therapy physicist shall practice in accordance with 641—subrule 41.3(6).

“Radiation therapy technologist” means an individual who possesses an Iowa permit to practice as a radiation therapist in accordance with rule 641—42.7(136C).

“Service area” means the county in which the facility is located and any other counties from which the applicant expects to draw patients with a cancer diagnosis who need radiation therapy treatment.

“Simulation” means the precise mock-up of a patient treatment with an apparatus that uses planar X-rays, magnetic resonance imaging device, or computed tomography scanner, which is used in reproducing the two-dimensional or three-dimensional internal or external geometry to the patient, for use in treatment planning and delivery.

“Superficial X-ray therapy” means the use of a conventional X-ray machine, which generates X-rays of up to 150 kilovolts (150 kv), to treat superficial lesions, such as skin cancer.

“Treatment” means radiation fields applied in a single patient visit fraction or delivery session.

2203.3(3) Availability.

a. Minimum utilization. (Iowa Code section 10A.714(1) “c,” “g,” “h”)

(1) A megavoltage radiation therapy unit and cobalt units should treat at least 250 new occurrences annually within three years after initiation of the service.

(2) The expected number of new occurrences needing megavoltage radiation therapy annually in a service area should be calculated as follows:

1. Multiply the service area population times 0.00582 (5.82/1,000 population was the mean cancer incidence rate in 2017 in Iowa as filed by the Surveillance, Epidemiology, and End Results (SEER) Program).

2. Multiply this product times .5 (50 percent of all new occurrences receive radiation therapy).

(3) The expected volume of utilization sufficient to support the need for a new megavoltage therapy unit should be calculated as follows: each unit shall provide a minimum of 5,000 treatments per annum. Megavoltage treatments should be projected by multiplying the number of projected new occurrences needing megavoltage therapy times 20, which will result in no fewer than 5,000 treatments per annum.

(4) Applicants shall account for other providers of radiation therapy in the service area including, but not limited to, factors such as technological capability and quality. Applicants shall address in their application other providers and the impact on those providers in the service area and compare technological capability and quality.

(5) Applicants should provide a map of the expected service area.

(6) Institutions that form a conjoint oncology center should have at least 500 new occurrences annually.

b. Simulator availability. A simulator should be available within a radiation oncology department.

2203.3(4) Accessibility. (Iowa Code section 10A.714(1) “c,” “d”) Radiation therapy services should be provided regardless of ability to pay, in consideration of those programs available in the state that serve the medically indigent.

2203.3(5) *Quality.* (Iowa Code section 10A.714(1)“i,”“k”)

- a.* Minimum staffing requirements for radiation therapy facilities:
- (1) Each facility will have the services of at least one radiation oncologist.
 - (2) Each facility will have the services of at least one radiation therapy physicist.
 - (3) Each facility will have the services of radiation therapy technologists that should be staffed at a level of two technologists per megavoltage unit.
 - (4) Each facility should have the services of nurses.
 - (5) Each facility should have the services of at least one dosimetrist.
 - (6) Each facility should have the services of one radiation therapist or radiation technologist competent to operate a CT simulator.
- b.* Each conjoint center will have at least two cancer biologists available.
- c.* Each conjoint center will have one radiation technologist available for each simulator.
- d.* The long-range plans for radiation therapy services shall be submitted to the Iowa department of health and human services.
- e.* Multidisciplinary tumor boards should be established in all institutions housing megavoltage machines.
- f.* A source of continuing education should exist within each conjoint center to reach participating community referral hospitals and physicians.
- g.* Each conjoint center should have a unified training program in radiation therapy for radiation oncologists.
- h.* Each radiation therapy facility should offer psychosocial counseling services and nutritional counseling.

2203.3(6) *Continuity.* (Iowa Code section 10A.714(1)“g,”“h,”“i,”“k”) The applicant should demonstrate that an attempt was made to solicit letters and establish referral agreements from area hospitals and physicians to indicate their willingness to participate in a cooperative endeavor to refer to the proposed service.

[ARC 7933C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2203.4(10A) Computerized tomography standards.**2203.4(1) *Purpose and scope.***

- a.* These standards are measures of some of those criteria in Iowa Code section 10A.714(1)“a” through “l.” Criteria that are measured by a standard are cited in parentheses following each standard.
- b.* Certificate of need applications that are to be evaluated against these computerized tomography standards include:

- (1) Proposals to commence or expand the capacity of computerized tomography services.
- (2) Any other applications that relate to computerized tomography services.

2203.4(2) *Definitions.*

a. Computerized tomographic (CT) scanner—a diagnostic tool that rotates about and that sends X-ray beams through the body or brain. The X-ray beams that emerge from the body or brain are absorbed by a detector. Differences in the amount of X-rays absorbed by the detector indicate differences in tissue density. As the scanner rotates, it takes many images of a volume or cross-section. The images on the detector are transmitted to a computer that displays on a monitor a reconstructed cross-sectional slice or volume. Contrast media is often injected to alter absorption of the detector. If the scan is repeated, it is called enhancement. Studies of the heart, arteries and veins may be done with contrast only.

- (1) Whole body scanner—one capable of imaging the entire body.
- (2) Head scanner—one capable of imaging only the brain and structures adjacent to the head.

b. Enhanced scan—a scan performed on a patient who has been administered a contrast medium so that specific organs or areas of the body will be displayed more distinctly on the scan image.

c. Minimum shared-market area for a scanner (hereafter referred to as “area”)—the smallest geographic area within which any scanner installation is judged to affect the utilization rate of any other scanner is the community (as defined by the U.S. Bureau of the Census) or a Standard Metropolitan Statistical Area (where an area is so designated).

d. Emergency medical service (EMS) level II trauma service—the level of various services and staffing that qualify a facility to be designated by the emergency medical service division of the Iowa department of health and human services, using the facilities categorization criteria of such services that is in effect on the date of the enactment of this standard.

e. Shared service agreements—a multi-institutional arrangement for coordination or consolidation of services or sharing of support services. Among the various types of arrangements are referred services, purchased or joint contract services, multisponsored services and regional services.

f. CT consortia—a cooperative venture in which two or more institutions form a separate entity that is created for the purpose of owning, leasing, planning for, and maintaining the use of the scanner. Each facility in the consortium maintains its autonomy for all other services.

g. Applicant—an applicant may be a facility or a consortium of facilities within an area, or a physician or group of physicians.

h. General imaging procedures—a radiological diagnostic procedure performed on an X-ray machine or similar radiological diagnostic instrument.

i. Active oncology service—full, multidisciplinary cancer care, provided by a medical team that would include: surgery, gynecology, medical oncology, radiation oncology, pathology, diagnostic radiology and nuclear medicine. The surgery specialties that might be available would include: thoracic, abdominal, genitourinary and gynecological. The active oncology staff would include those specialists with training in oncology, hematology, and pathology and who spend at least half of their time at the institution.

j. Radiotherapy service—the therapeutic application of megavoltage radiation, using a linear accelerator or cobalt unit. The availability of such service at a hospital would necessitate personnel trained in the therapeutic application of radiology.

k. Chemotherapy service—the treatment of cancer by chemical agents.

2203.4(3) Determination of need.

a. Applicants who do not have a scanner, or who have a scanner and seek a certificate for one or more additional scanners.

(1) Applicants in areas with no other scanners.

1. Applicants must have performed at least 30,000 general imaging procedures during the past calendar year or 12 months, or

2. Demonstrate that during the past calendar year or 12 months, the applicant performed diagnostic procedures equivalent to 1500 HECTs (head equivalent CTs), using the following:

100% of the number of patients referred to other facilities for CT diagnosis $\times$ 1.75 (in the case of head scans) and 2.75 (in the case of body scans)

(2) Applicants in areas with one or more scanners.

1. An applicant must meet the requirement of need, described in subparagraph 2203.4(3)“a”(1), and

2. The average level of utilization for scanners within the area was at least 3000 HECTs (plus or minus 10 percent) for the past calendar year or 12 months. The average level of utilization will be determined by adding the number of HECTs performed during the period at all area facilities divided by the number of facilities.

3. The University of Iowa Hospitals and Clinics is specifically exempted from consideration under numbered paragraph 2203.4(3)“a”(2)“2” because it has a service area that encompasses the entire state and adjoining states. The utilization statistics for the University Hospital will therefore neither affect nor be affected by Mercy Hospital, Iowa City. Additionally, the utilization statistics for scanners at the University of Nebraska Hospitals and Clinics and St. Joseph’s Hospital (both in Omaha) will not affect the need for scanners at hospitals in Council Bluffs.

b. Replacement scanners—applicants who currently have a scanner.

(1) All applicants seeking to replace a scanner with another scanner, head or body.

1. The applicant must demonstrate that the applicant’s use of the applicant’s current scanner was at least at the operating capacity level during the last calendar year or 12 months, or

2. Below the operating capacity level, but above 1500 CT scan level, and the applicant must demonstrate reasons for permanently utilizing their scanner below operating capacity level and demonstrate that discontinuation of their scanner service would impair the applicant’s ability to respond to the emergency needs of the area. Reasons for utilizing the scanner below the capacity should include a unique patient or procedure mix that would define the capacity level differently for this applicant.

(2) Reserved.

2203.4(4) Costs and financial feasibility. (Iowa Code section 10A.714(1)“f,” “i,” “p”) CT scanners should be depreciated over a period of not less than seven years. Remodeling shall be depreciated as appropriate by generally accepted accounting principles.

a. Cost-effectiveness. Applicants should demonstrate for themselves and the health care system that the most cost-effective method of providing CT services has been chosen. Proposed new and replacement CT scanner’s cost per CT scan should, when compared to their peers, demonstrate cost-effectiveness.

b. Reserved.

2203.4(5) Accessibility. (Iowa Code section 10A.714(1)“c,” “d”)

a. All scanners must be available to meet the needs of the communities the scanners are meant to serve.

b. Services should be provided to all patients regardless of the patient's ability to pay, taking into consideration the availability of those programs available in the state that serve the medically indigent.

c. Applicants will demonstrate a willingness to accept referrals for CT services from all area physicians.

2203.4(6) *Quality.* (Iowa Code section 10A.714(1) "i," "k")

a. Data on use and costs of the CT scanners should be submitted to the Iowa department of health and human services as a condition of approval. (Iowa Code section 10A.714(1) "a," "h")

b. All scanners.

(1) All applicants must demonstrate that they have on their staff or will acquire on their staff a full-time diagnostic radiologist, trained in the use of the CT scanner, or other physicians with comparable training and expertise.

(2) All applicants must document that they have on their medical staff individuals who are qualified to operate a scanner and interpret and act upon the diagnostic results. Such documentation may include reference to board certification, apprenticeship, academic credentials or such other qualifications that would prompt a medical staff to accept the responsibility for offering this new service. Applicants who intend to acquire staff with the desired expertise should provide signed letters of intent from the incoming medical personnel. Applicants who intend to upgrade the specialty skills of their staff should document a plan for training their current staff in the use of CT scanners.

(3) All applicants should have a complement of other diagnostic modalities available. Applicants seeking body scanners should also have available ultrasound and conventional X-ray services.

(4) All applicants should have the facilities for treating the conditions diagnosed by imaging with the scanner or should demonstrate referral agreements with treatment facilities, in the event that the scanner will be used as a screening device.

(5) All applicants should have on their staff or available on a consultative basis the services of a biomedical engineer or medical physicist, with special training in CT applications. These functions may also be provided by contract with the scanner manufacturer.

2203.4(7) *Continuity.* (Iowa Code section 10A.714(1) "g," "h," "i," "k")

a. The applicant should demonstrate that an attempt was made to solicit letters of support from area hospitals and physicians to indicate a community need for the proposed service.

b. The applicant should provide documentation that emergency medical transport services will be available.

c. The applicant should demonstrate an emphasis on the availability of outpatient CT procedures and that an appropriate percentage of all CT procedures will be done on an outpatient basis.

2203.4(8) *Acceptability.* (Iowa Code section 10A.714(1) "k") Providers of CT services should indicate a willingness to observe the rights of patients.

[ARC 7933C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2203.5(10A) Long-term care.

2203.5(1) *Purpose and scope.*

a. These standards are measures of criteria found in Iowa Code section 10A.714(1) "a" through "g." Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these standards include applications to:

(1) Construct, develop, offer new, modernize, replace, renovate, or relocate intermediate care or skilled nursing care beds in nursing homes or hospitals.

(2) Expand bed capacity in intermediate care or skilled nursing care facilities or designated units in hospitals.

2203.5(2) *Definitions.*

"Intermediate care facility" or "ICF" means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services that can be provided only under the direction of a registered nurse or a licensed practical nurse.

"Rural counties" means all counties not designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

"Skilled nursing facility" or "SNF" means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour-per-day basis.

“Urban counties” means those counties designated by the U.S. Census as SMA (Standard Metropolitan Area) counties.

2203.5(3) Availability and need. (Iowa Code section 10A.714(1) “c,” “d,” “e,” “g,” “h”)

a. The following formula shall be used as a means of projecting the approximate number of intermediate and skilled nursing care beds needed to serve the projected population five years into the future:

(1) Rural counties:

$[\text{.09}(\text{65} + \text{population}) + \text{.0015}(\text{64} - \text{population})] \times 110\%$ equals total long-term care bed need

Combined SNF and ICF bed need equals $\frac{2}{3}$ (total long-term care bed need)

Assumed RCF bed need equals $\frac{1}{3}$ (total long-term care bed need).

(2) Urban counties:

$[\text{.07}(\text{65} + \text{population}) + \text{.0015}(\text{64} - \text{population})] \times 110\%$ equals total long-term care bed need

Combined SNF and ICF bed need equals $\frac{2}{3}$ (total long-term care bed need)

Assumed RCF bed need equals $\frac{1}{3}$ (total long-term care bed need).

(3) Economic development authority population projections are adopted for use in the determination of long-term care bed need.

(4) The department of inspections, appeals, and licensing will calculate long-term care bed need figures annually, using population projections five years into the future.

b. For purposes of comparing “need” to “existing” beds in a given county, the following shall be considered in the calculation of “existing” beds:

(1) ICF and SNF beds licensed at freestanding facilities in the county.

(2) Additional ICF and SNF beds previously approved through certificate of need but not yet licensed.

(3) ICF and SNF beds in designated units in hospitals in the county.

c. The statistical calculation of bed need shall serve as a guideline for the health facilities council in reviewing need for the proposed long-term care beds. Other factors that may be considered by the council include, but are not limited to:

(1) The availability and utilization of other ICF and SNF services in the county, or within the applicant’s service area.

(2) The availability and utilization of other long-term care services in nearby hospitals, such as skilled care available through the swing bed program.

(3) The availability of supportive living arrangements that may or may not be licensed as residential care facilities (RCF).

(4) The availability of home health and other in-home services.

(5) The availability of other services to the elderly.

(6) The availability of ICF and SNF services in neighboring counties.

(7) Utilization by out-of-state residents of facilities in counties bordering other states, where the applicant provides evidence that in-migration of long-term care patients exceeds out-migration to the bordering state.

(8) Programs and services directed at special populations whose needs cannot otherwise be met, or whose needs cannot be met cost-effectively at other facilities.

d. In documenting need for a project, the applicant shall identify the service area and target population, including a description of the methodology used by the applicant in determining need for the requested beds and the expected sources of referrals. The applicant shall document that the number of beds requested is appropriate to address the identified need. The applicant shall also identify how the target population is currently being cared for, and what hardship is being experienced by the absence of the proposed beds.

2203.5(4) Quality. (Iowa Code section 10A.714(1) “i,” “k”) The applicant shall document that the applicant has contacted the health and safety division of the department of inspections, appeals, and licensing to conform with physical standards, staffing requirements, and other licensing requirements to assess the potential for provision of quality care at the facility. When necessary, the applicant shall attempt to arrange an on-site visit to the facility to determine compliance with physical requirements, and shall provide documentation of this site visit or attempts to arrange such a site visit.

2203.5(5) Continuity. (Iowa Code section 10A.714(1) “g,” “h,” “k”)

a. The applicant shall document the relationship of the facility’s proposed services to other health and long-term care services in the community such as physician and hospital services, habilitation, rehabilitation, transportation or other services. The facility should be capable of providing or arranging for the provision of a continuum of long-term care services.

b. The facility should be capable of providing or arranging for the provision of a comprehensive program of coordinated patient services. The applicant shall provide evidence of contracts for services, appropriate staffing patterns and ratios, and licensure of personnel as necessary.

2203.5(6) Accessibility and acceptability. (Iowa Code section 10A.714(1) “c,” “d”)

a. Population subgroups that have traditionally been underserved, such as adolescents, the elderly, women, racial minorities, mentally ill, intellectually disabled, and developmentally disabled should be considered when planning for or reviewing long-term care facilities.

b. The applicant shall document to what extent Medicaid patients will be served by the proposed beds, using past Medicaid utilization as an indicator or, in the case of a new facility, projecting anticipated Medicaid utilization.

2203.5(7) Costs and financial feasibility. (Iowa Code section 10A.714(1) “e,” “f,” “i,” “p”)

a. The applicant shall identify capital and operating costs associated with the project, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. Construction costs shall be in line with construction costs of other similar projects.

c. The applicant shall provide budgets for the first three years of operation, including documentation of all assumptions used. The budget shall include anticipated sources of revenue, including the percentage of revenue from private pay, Medicaid, Medicare and other patient revenues.

d. Proposed charges per patient day should be justifiable when compared to current charges of other similarly licensed facilities in the applicant’s service area, or other similar facilities elsewhere in the state. If charges are significantly higher or lower, the applicant shall provide a description of proposed programs or services that explain the difference in charges.

[ARC 7933C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

These rules are intended to implement Iowa Code section 10A.722.

481—2203.6 to 2203.11 Reserved.

481—2203.12(10A) Magnetic resonance imaging services standards.

2203.12(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code section 10A.714(1) “a” through “q.” Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these standards include:

- (1) Proposals to commence or expand the capacity of magnetic resonance imaging services.
- (2) Proposals to replace a magnetic resonance imaging unit.
- (3) Any other applications that relate to magnetic resonance imaging.

2203.12(2) Definitions.

“Area” means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

“CT (computed tomography) procedure” means a CT study of a single site of anatomic interest during an individual patient visit.

“Magnetic resonance imaging (MRI)” means a diagnostic modality that employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

“MRI procedure” means each discrete MRI study of one patient.

“MRI unit” means the essential equipment and facility necessary to operate one MRI system.

2203.12(3) Availability and need. (Iowa Code section 10A.714(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other MRI units. Applicant must document a future utilization of reasonably projected MRI procedure volume for the fiscal year period after projected installation.

b. Applicants in areas with one or more MRI units currently in operation or approved by certificate of need for operation.

(1) Applicant must meet the requirement of need described in paragraph 2203.12(3) “a,” and

(2) The other MRI unit(s) within the area must have been operating at a minimum of 2,000 MRI procedures annually (or 500 in three months), or proportionately more if the MRI unit runs more than one ten-hour shift.

(3) If the annual utilization of the other MRI unit(s) within the area has been below 2,000 procedures, future utilization above that current level must be reasonably projected or reasons for permanently utilizing the equipment below the 2,000 procedure level must be demonstrated.

c. Applicants seeking to replace an MRI unit.

(1) The applicant must demonstrate that the existing MRI unit has been operating at the level of at least 3,000 procedures during the most recent annual period.

(2) If the applicant's annual utilization has been below 2,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

d. Applicants seeking to add an additional MRI unit.

(1) The applicant must demonstrate that the existing MRI unit(s) has been operating at the level of at least 3,500 procedures during the most recent annual period.

(2) The applicant must demonstrate that the demand significantly exceeds the 2,000 procedures annually.

(3) If the applicant's annual utilization has been below 2,000 procedures, the applicant must reasonably project future utilization above that level or demonstrate reasons for permanently utilizing the equipment below that level.

2203.12(4) *Quality and continuity.* (Iowa Code section 10A.714(1) "g," "h," "i," "k")

a. The proposed MRI unit should function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed MRI unit must have the following modalities on-site or through referral arrangements:

(1) Ultrasound.

(2) Computed tomography.

(3) Angiography.

(4) Nuclear medicine.

(5) Conventional radiography.

b. The proposed MRI unit must be located in a facility that has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by MRI. The following medical specialties must be available during MRI service hours on-site or by referral arrangements: neurology or neurosurgery, oncology and cardiology.

c. A proposal to provide new or expanded MRI must include satisfactory assurances that the services will be offered in a physical environment that conforms to federal standards, manufacturer's specifications, and licensing agencies' requirements.

d. The applicant must provide evidence that the proposed MRI equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under the approval and authority of an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

e. Applicants for MRI should document that the necessary qualified staff are available to operate the proposed unit. The following minimum staff will be available to the MRI unit:

(1) A board-eligible or board-certified radiologist or any other board-eligible or board-certified licensed physician whose exclusive responsibility for at least a two-year period prior to submission of a certificate of need request has been in the acquisition and interpretation of clinical images. This individual shall have a knowledge of MRI through training, experience, or documented postgraduate education. The individual shall also have training with a functional MRI facility.

(2) Qualified engineering personnel, available to the institution during MRI service hours, with training and experience in the operation and maintenance of the MRI equipment.

(3) Diagnostic radiologic technologists or other certified technologists with expertise in computed tomography or other cross-sectional imaging methods, at a staffing level consistent with the hospital's expected MRI service volume.

(4) Other appropriate physicians shall be available during MRI service hours in clinical specialties such as neurology or neurosurgery, oncology and cardiology.

f. The applicant shall demonstrate how emergencies within the MRI unit will be managed in conformity with accepted medical practice.

2203.12(5) *Accessibility and acceptability.* (Iowa Code section 10A.714(1) "c," "d")

a. MRI facilities should have adequate scheduled hours to avoid an excessive backlog of cases and to meet the needs of the communities the scanners are meant to serve.

b. Selection of patients for clinical MRI studies must guarantee equal access to all persons regardless of insurance coverage or ability to pay.

2203.12(6) *Costs and financial feasibility.* (Iowa Code section 10A.714(1) "e," "f," "i," "p")

a. The applicant shall identify capital and operating costs associated with the proposed MRI unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.

b. The applicant shall provide budgets for the first three years of operation, including documentation and justification of all assumptions used.

c. The applicant must document its projected average cost per procedure and charge per procedure for the first three years. Charges for MRI should be reasonably related to service cost, and comparable to MRI charges at other facilities in the state.

d. The applicant shall demonstrate that alternatives were considered and the proposed application is the most cost-effective and will accomplish the goals of the project.

[ARC 7933C, IAB 5/1/24, effective 6/5/24; Editorial change: IAC Supplement 9/4/24]

481—2203.13(10A) Positron emission tomography services standards.

2203.13(1) Purpose and scope.

a. These standards are measures of some of those criteria in Iowa Code section 10A.714(1) “a” through “q.” Criteria that are measured by a standard are cited in parentheses following each standard.

b. Certificate of need applications that are to be evaluated against these standards include:

- (1) Proposals to commence or expand the capacity of positron emission tomography services.
- (2) Proposals to replace a positron emission tomography unit.
- (3) Any other applications that relate to positron emission tomography.

2203.13(2) Definitions.

“Area” means the community or a metropolitan statistical area (as defined by the U.S. Office of Management and Budget and used by the U.S. Census Bureau).

“CT (computed tomography)” means an imaging method in which a cross-sectional image of the structures in a body plane is reconstructed by a computer program from the X-ray absorption of beams projected through the body in the image plane.

“Cyclotron” means an apparatus for accelerating protons or neutrons to high energies by means of a constant magnet and an oscillating electric field.

“MRI (magnetic resonance imaging)” means a diagnostic modality that employs a combination of magnetic and radio frequency fields and computers to produce images of body organs and tissues.

“Radiopharmaceutical” means a radioactive pharmaceutical used for diagnostic or therapeutic purposes.

“PET procedure” means an image-scanning sequence derived from a single administration of PET, equated with a single injection of the tracer.

“Positron emission tomography (PET)” means an imaging method in which positron-emitting radionuclides, which are produced either by a cyclotron or generator, and a nuclear camera are used to create pictures of organ function rather than structure.

“SPECT (single photon emission computed tomography)” means a camera-based imaging system using the radionuclides in the routine practice of nuclear medicine.

2203.13(3) Availability and need. (Iowa Code section 10A.714(1) “c,” “d,” “e,” “g,” “h”)

a. Applicants in areas with no other PET units.

(1) Applicants should demonstrate a reasonable potential utilization of a PET unit based on diversified inpatient and outpatient case mix thresholds including:

1. Intracranial cases.
 - Primary brain tumors 50/year
 - Metastasis 100/year
 - Cerebral vascular disease 200/year
 - Organic brain disease and dementia/psychiatric diagnoses (including epilepsy-seizure disorders) 500/year
 - Spinal 100/year
2. Cardiovascular cases.
 - Ischemic heart disease (including acute and chronic infarction) 1200/year
3. Neoplasms (head, neck, thorax (excluding heart), abdomen, pelvic, prostate and musculoskeletal 1300/year.

(2) Applicants should have other diagnostic capabilities, on-site or through referral arrangements, with appropriate volumes including:

	Proposed Threshold
Nuclear medicine imaging services	5,600
Single photon emission computed tomography (including brain, bone, liver, Gallium and Thallium stress)	1,600
CT	8,000
MRI	2,400

(3) Applicants should demonstrate secondary and tertiary service capability, on-site or through referral arrangements, including cardiac surgery, cardiology, internal medicine, general surgery, hematology/oncology, neurology, pathology, thoracic surgery and psychiatry.

b. Applicants in areas with one or more PET units currently in operation or approved by the certificate of need program for operation.

Existing PET units within the area (whether basic or enhanced) should have been operating at a minimum of 1000 PET procedures during the most recent annual period as reported to the certificate of need program according to paragraph 2203.13(6)“e.”

2203.13(4) *Quality and continuity.* (Iowa Code section 10A.714(1)“g,” “h,” “i,” “k”)

a. The proposed PET unit should function as a component of a comprehensive inpatient or outpatient diagnostic service. The proposed PET unit should have the following modalities (and capabilities) on-site or through referral arrangements:

- (1) Computed tomography.
- (2) Magnetic resonance imaging.
- (3) Nuclear medicine — (cardiac, SPECT).
- (4) Conventional radiography.

b. The proposed PET unit should be located in a facility that has, either in-house or through referral arrangement, the resources necessary to treat most of the conditions diagnosed or confirmed by PET. The following medical specialties should be available during PET service hours on-site or by referral arrangements: cardiology, neurology, neurosurgery, oncology, and psychiatry.

c. A proposal to provide new or expanded PET must include satisfactory assurances that services will be offered in a physical environment that conforms to federal standards, manufacturer’s specifications, and licensing agencies’ requirements. The following areas are to be addressed:

- (1) Quality control and assurance of radiopharmaceutical production of generator or cyclotron-produced agents;
- (2) Quality control and assurance of PET tomograph and associated instrumentation;
- (3) Radiation protection and shielding;
- (4) Radioactive emissions to the environment.

d. The applicant will provide evidence that the proposed PET equipment has been certified for clinical use by the U.S. Food and Drug Administration or will be operated under the approval and authority of an institutional review board whose membership is consistent with U.S. Department of Health and Human Services regulations.

e. Applicants for PET will document that the necessary qualified staff are available to operate the proposed unit. The applicants will document the PET training and experience of the staff. The following minimum staff will be available to the PET unit:

(1) One or more nuclear medicine imaging physician(s) available to the PET unit who have been licensed by the state for the handling of medical radionuclides and whose primary responsibility for at least a one-year period prior to submission of the certificate of need application has been in acquisition and interpretation of tomographic images. This individual shall have knowledge of PET through training, experience, or documented postgraduate education. The individual shall also have training with a functional PET facility.

(2) Qualified PET radiochemist or radiopharmacist personnel, available to the facility during PET service hours, with at least one year of training. The individual(s) will demonstrate experience in the testing of chemical, radiochemical, and radionuclidic purity of PET radiopharmaceutical syntheses.

(3) Qualified engineering and physics personnel, available to the facility during PET service hours, with training and experience in the operation and maintenance of the PET equipment.

(4) Qualified radiation safety personnel, available to the facility at all times, with training and experience in the handling of short-lived positron-emitting nuclides.

(5) Certified nuclear medicine technologists with expertise in computed tomographic nuclear medicine imaging procedures, at a staffing level consistent with the proposed center’s expected PET service volume.

(6) Other appropriate personnel should be available during PET service hours, which may include certified nuclear medicine technologists, computer programmers, nurses, and radiochemistry technicians.

f. The applicant will demonstrate how emergencies within the PET unit will be managed in conformity with accepted medical practice.

2203.13(5) *Accessibility and acceptability.* (Iowa Code section 10A.714(1)“c,” “d”)

a. PET facilities should have adequate scheduled hours to avoid an excessive backlog of cases.

b. Selection of patients for clinical PET studies will guarantee equal access to all persons regardless of insurance coverage or ability to pay.

c. In addition to accepting patients from participating institutions, facilities performing clinical PET procedures should accept appropriate referrals from other local providers. These patients will be accommodated to the extent possible by extending the hours of service and by prioritizing patients according to standards of need and appropriateness rather than source of referral.

2203.13(6) *Costs and financial feasibility.* (Iowa Code section 10A.714(1)“e,” “f,” “i,” “p”)

- a.* The applicant will identify capital and operating costs associated with the proposed PET unit, identify sources of funding to cover those costs, and demonstrate that the project is financially feasible.
- b.* The applicant will provide budgets for the first three years of operation, including documentation and justification of all assumptions used.
- c.* The applicant will document its projected average cost per procedure and charge per procedure for the first three years. Charges for PET should be reasonably related to service cost and comparable to PET charges at other facilities in the state.
- d.* The applicant should verify whether the service is eligible for reimbursement by public and private third-party payers.
- e.* The applicant should demonstrate that alternatives were considered and the proposed application is the most cost-effective and should accomplish the goals of the project.

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These rules are intended to implement Iowa Code sections 10A.711 through 10A.729.

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