

CHAPTER 41
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

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]
[Filed 1/19/90, Notice 7/26/89—published 2/7/90, effective 3/14/90]
[Filed emergency 10/26/90—published 11/14/90, effective 10/26/90¹]
[Filed 2/1/91, Notice 12/12/90—published 2/20/91, effective 3/27/91]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 1/21/99, Notice 10/7/98—published 2/10/99, effective 3/17/99]
[Filed ARC 8857B (Notice ARC 8657B, IAB 4/7/10), IAB 6/16/10, effective 7/21/10]
[Filed ARC 5719C (Notice ARC 5560C, IAB 4/21/21), IAB 6/16/21, effective 7/21/21]
[Filed ARC 6973C (Notice ARC 6813C, IAB 1/11/23), IAB 4/5/23, effective 5/10/23]

¹ Incorporated 11/28/90