

481—65.4 (135C) Variances. Variances from these rules may be granted by the director of the department when:

1. The need for a variance has been established consistent with the résumé of care or the resident's individual program plan.
2. There is no danger to the health, safety, welfare or rights of any resident.
3. The variance will apply only to a specific intermediate care facility for the mentally ill.

Variances shall be reviewed at least at the time of each licensure survey and any other time by the department to see if the need for the variance is still acceptable.

65.4(1) To request a variance, the licensee must:

- a.* Apply in writing on a form provided by the department;
 - b.* Cite the rule or rules from which a variance is desired;
 - c.* State why compliance with the rule or rules cannot be accomplished;
 - d.* Explain how the variance is consistent with the résumé of care or the individual program plan;
- and
- e.* Demonstrate that the requested variance will not endanger the health, safety, welfare or rights of any resident.

65.4(2) Upon receipt of a request for variance, the director will:

- a.* Examine the rule from which the variance is requested;
- b.* Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the residents;
- c.* Examine the effect of the requested variance on the health, safety or welfare of the residents;
- d.* Consult with the applicant to obtain additional written information if required; and
- e.* Obtain approval of the Iowa mental health and disability services commission, when the request is for a variance from the requirement for qualification of a mental health professional.

65.4(3) Based upon this information, approval of the variance will be either granted or denied within 120 days of receipt.