

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.

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