

State Board of Health

REGULARLY SCHEDULED MEETING: 03/08/2023

10:00 A.M. – 12:00 P.M.

LOCATION: ZOOM VIRTUAL MEETING

MEETING LINK:

<https://us02web.zoom.us/j/86969429509?pwd=cG1SQi9aUXRjeEZQV3llaEVKelliQT09>

JOIN BY PHONE: +1 312 626 6799

Meeting ID: 869 6942 9509 and **Passcode:** 868065

Agenda

Board Members: Andrew Allen; Leone Junck; George Kovach, MD; Donald Macfarlane, MD, PhD; Sandra McGrath, RN; Kierstyn Borg Mickelson; Nick Ryan, JD; Chelcee Schleuger, RN, BSN; Samantha Rozeboom, MD; Ann McBride, RN

In accordance with its statutory duties, the Iowa State Board of Health is the policy-making body for the Iowa Department of Public Health. The board's mission is to protect and promote the health of all Iowans by reviewing the field of public health and making recommendations to the department, the Iowa General Assembly, and the governor on a wide range of public health issues. The board also adopts rules consistent with the law for the protection of the public health and the prevention of substance abuse.

- 10:00 A.M.** Call to order; roll call to determine if a quorum is present
- 10:05 A.M.** Board Minutes for Consideration of Approval – 01/11/2023
- 10:10 A.M.** Director's Report – Kelly Garcia, IHHS Director
- 10:30 A.M.** State Medical Director Report – Robert Kruse, M.D., M.P.H
- 10:50 A.M.** Youth & Young Adult Substance Use Trends - Pat McGovern
- 11:05 A.M.** Fentanyl Awareness Campaign - Monica Wilke-Brown
- 11:20 A.M.** Administrative Rules – Department of Public Health [641] – Susan Dixon
Adopted and Filed
 - a. Chapter 15, "Swimming Pools and Spas"
- 11:25 A.M.** Department of Inspections and Appeals [482] - Ashleigh Hackel
Notice of Intended Action

- a. *ARC 6812C* - a rule making for intermediate care facilities for the intellectually disabled
- b. *ARC 6813C* - a rule making related to psychiatric medical institutions for children (PMIC)
- c. *ARC 6834C* - a rule making related to physician assistants.
- d. *ARC 6835C* - a rule making related to violations by a healthcare facility
- e. *ARC 6878C* - a rule making related to hospice license standards
- f. *ARC 6908C* - a rule making related to nursing facilities
- g. *ARC 6909C* - a rule making related to boarding homes
- h. *ARC 6910C* - a rule making related to minimum physical standards for residential care facilities
- i. *ARC 6911C* - a rule making related to health care facilities administration

Adopted and Filed

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- e. *ARC 6878C* - a rule making related to hospice license standards

11:40 A.M. Substance Use & Problem Gambling Treatment Program Committee

12:00 P.M. Adjournment

*****Immediately following this meeting, the State Board of Health will convene as the PHHS Block Grant Advisory Committee. The Advisory Committee meeting is open to members of the public and will be conducted using the same Zoom link as the 10:00 a.m. meeting.*****

The electronic meeting of the State Board of Health is being held in accordance with Iowa Code section 21.8 entitled "Electronic Meetings." The code states that a governmental body may conduct a meeting by electronic means only if circumstances are such that a meeting in person is impossible or impractical and access is provided to the public. An in-person meeting of the Board is impractical due to the schedules of the Board members. The electronic meeting will originate in the Director's Conference Room, 6th floor, Lucas State Office Building, 321 E 12th Street, Des Moines and

public access meetings shall be provided at this location. Notices and agendas were posted in the building and posted on the Department's website. Minutes of the meeting will be kept.

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Iowa State Board of Health
01/11/2023
Draft - MEETING MINUTES

Members Present: Donald Macfarlane, MD, PhD, Chair
Andrew Allen, Vice-Chair
George Kovach, MD
Leone Junck
Ann McBride, RN
Sandra McGrath, RN
Samantha Rozeboom, MD
Nick Ryan, JD

Members Absent: Leone Junck
Kierstyn Borg Mickelson
Chelcee Schleuger, RN, BSN

Staff Present: Robert Kruse, MPH, PhD, State Medical Director
Ken Sharp, Public Health Operations Deputy
Sarah Resisetter, J.D., Director of Compliance
Iesha Smith, Recording Officer

Staff Absent: Kelly Garcia, IHHS Director

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Call to Order & Roll Call

Donald Macfarlane called the video meeting to order at 10:03 AM. Roll call was taken to determine if a quorum was present.

Approval of Minutes from 11/09/2022

On a motion by Andrew Allen, seconded by George Kovach, all members present voted unanimously to approve the minutes.

Director's Report - Robert Kruse on behalf of Kelly Garcia, IHHS Director

Director Kelly was not able to attend the board meeting however Dr. Kruse presented the report on Director Garcia's behalf. The President signed the Consolidated Appropriations Act of 2023 which will end the Medicaid program's continuous coverage requirements as of April 1, 2023. Iowa Medicaid is actively onboarding a new Managed Care Organization and scheduling mailings for members who choose a different MCO.

HHS released an RFP on January 6th, 2023 seeking ethnic, community or faith-based organizations to assist critical wraparound support to refugees in Iowa. Critical support focuses on community integration, English proficiency, digital literacy, banking and financial planning, transportation, health and wellness, services for older refugees and youth supports.

The Healthy Iowans Partnership released the 2023-2027 State Health Improvement Plan (SHIP) which will serve as a guide for public health work throughout the state. The SHIP focuses on two main priorities: Access to Care: Behavioral Health and Healthy Eating & Active Living. The committee selected these priorities based on potential impact, feasibility, and equity considerations.

HHS is getting ready to launch the combined DHS and IDPH website on January 12th. This is an interim step to help the agency design the new webpages to be more human centered and user friendly.

The State Training School annual evaluation was filed on December 1, 2022 with the court. The reports show continued improvement as they increase their overall compliance. For the Resource Centers, a Department of Justice Consent Decree was re-filed on December 19, 2022. The court has not yet ruled on this but preparations are beginning for compliance and monitoring, which has been occurring over the last two years. HHS will hold a town hall meeting at Glenwood Resource Center for family and guardians to provide updates on transitions, community providers, and the DOJ consent decree. Dr. Bhasker Dave announced on January 4th that he will step down as the Superintendent at Independent Mental Health Institute but will remain on staff as the clinical director. Ben Shuberg has been named the interim superintendent while HHS begins the search for a permanent replacement. Shuberg currently serves as the deputy superintendent at Cherokee Mental Health Institute.

State Medical Director Report- Robert Kruse, State Medical Director

Dr. Kruse shared that since the Ebola outbreak in Uganda that started in September 2022, Iowa has received information about travelers arriving from outbreak areas. The agency has coordinated with local public health to contact those travelers to provide mitigation efforts. The Uganda health ministry has now declared the outbreak over. The outbreak has been low risk for Iowans since it was declared.

In December, three key roles for HHS were filled. Previously the Division Director for several public health teams, Ken Sharp accepted the role as Operations Deputy for the Division of Public Health. Erin Drinnin will head the Community Access Division and will oversee child support services, economic assistance programs and wellness and preventive health. Janee Harvey will lead the new Family Well-Being and Protection Division of HHS and will oversee policy and practice for child protective services, childcare and family services.

The state has reached its highest peak in the weeks of December 17th and December 24th and has been on the decrease since. Positive testing has decreased and most of the results have been from Influenza A.

The Division of Public Health has hosted several sessions with Local Public Health to meet Dr. Kruse and other public health staff. These discussions focus on key public health efforts such as the agency's alignment updates, foundational capabilities, systems grants and systems development work.

Board member Andrew Allen asked about the lawsuit from Medicaid to mental health facilities. Dr. Kruse informed the board that they can direct those questions to the Public Information Officer from the Communications Team at IHHS. Board member Sandra McGrath inquired about the status of Executive 10 Moratorium from the Governor's office on the local boards of health and current licensing and regulations of programs. Board member Andrew Allen provided highlights from the Governor's state of union address that the moratorium provides a period of review for administrative rules from state agencies and to reduce complexities to rules and regulations. Board member Donald Macfarlane asked about the state of the board of health in relation to the alignment efforts. Dr. Kruse shared there are still discussions being had to discuss the makeup of the future entity. Questions about the ad hoc function of the new board have been shared in conversations but no official communication has been released.

Andrew Allen also shared insight about the opioid epidemic from the Governor's office and a campaign to address the dangers of opioids and fentanyl in Iowa. From Andrew's perspective as a provider, youth are a population of concern for this epidemic and the impacts on this community should be a priority for this board. Board member Donald Macfarlane chimed in about the need for this topic plus additional health concerns for youth to be a part of the board's future meetings. Board member Sandra McGrath had a question about concerns of vaping with CBD and THC in Iowa and its use by younger individuals. Board members Andrew Allen and Donald Macfarlane have indicated that we have little data about the impacts of THC on young adults and how we need additional information to help understand how to develop policies.

Administrative Rules - Iowa Department of Public Health [641] - Notice of Intended Action Chapter 15, "Swimming Pool and Spas"

The proposed amendments are intended to provide more clarity to existing provisions or reduce duplication of provisions. Board member Andrew Allen inquired about Ames High School and whether these rules are in relation to the high school not being open to the public due to construction not being permitted. Ken Sharp shared there are instances where rules and regulations are not followers for pool construction but the state will follow up with facilities to ensure they have proper standards to ensure health and safety.

Chapter 43, Chapter 131, "Emergency Medical Services—Providers—Initial Certification--Renewal and Reactivation—Authority—Complaints and Investigations," and Chapter 196, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members"

The proposed amendments implement the licensure-related provisions of 2022 Iowa Acts, SF 2383. The proposed rulemaking revises the requirements for licensure by verification, and

updates the requirements and parameters of licensure for veterans and their spouses. Board member George Kovach had a question about the length of time for a temporary license. EMS program staff member Brad VandeLune provided context about how the provisional license was implemented during COVID-19 to support licensees during the state's pandemic declaration to grant one year to hold a temporary license.

Administrative Rules - Iowa Department of Public Health [641] - Adopted and Filed

Chapter 9, "Outpatient Diabetes Education Program," Chapter 11, "Human Immunodeficiency virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS)," Chapter 91, "Iowa Domestic Abuse Death Review Team," Chapter 109, "Prescription Drug Donation Repository Program," and Chapter 142, "Out-of-Hospital Do-Not-Resuscitate Orders"

This rulemaking makes changes required by 2022 Iowa Acts, House File 803, by adding a definition for "physician assistant" in Chapters 9, 11, 109, and 142 and adding provisions regarding physician assistants in specific rules in Chapters 9, 11, 91, 109 and 142. Board member George Kovach motioned to approve with Andrew Allen seconded. All board members present voted unanimously to approve the rules.

Chapter 43, "Minimum Requirements for Radon Testing and Analysis"

The amendments have been drafted to implement the Radon Testing and Mitigation in Public Schools Act, 2022 Iowa Acts, House File 2412, which Governor Reynolds signed after the 2022 Legislative Session. The amendments include cleaning up outdated certification agency language throughout 641—Chapter 43. The National Environmental Health Association (NEHA) no longer certified radon professionals, updated rules to include the current national consensus radon measurement standards, and added rules about measurement training requirements and training course approval for school district employees as required by 2022 Iowa Acts, House File 2412. Board member George Kovach motioned to approve with Sandra McGrath seconded. All board members present voted unanimously to approve the rules.

Chapter 95, "Vital Records: General Administration"

These amendments implement 2022 Iowa Acts, Senate File 577, by establishing a process to request and issue a certificate of nonviable birth when a health care provider diagnoses a nonviable birth. Board member George Kovach inquired about language on how a certificate of nonviable birth can not be used to cause a civil cause of action and why it was inserted. Bureau Chief Melissa Bird commented that language was inserted by the legislature and could not comment on the origins why. The program was not consulted on the language in the legislative assessment and Ken Sharp shared that the program could work with the legislative team to get clarification. Board member Donald Macfarlane asked the importance of the \$15 fee so the fee is associated to fund the program given no state appropriation. Melissa Bird will provide additional information to Donald Macfarlane on fees associated with the Vital Statistics bureau. Board member George Kovach motioned to approve with Nick Ryan seconded. All board members present voted unanimously to approve the rules.

Substance Use/Problem Gambling Treatment Program Committee Report - New Committee Appointee Discussion

Andrew Allen led the discussion about the work of the committee to focus on licensure and providing general updates on substance use disorders in the state. The committee meeting was short and provided the following updates on licensure approvals:

- One - One year license
- One - Two year license
- One - Deemed status

Adjournment

On a motion by Nick Ryan seconded by George Kovach, all State Board of Health members present voted unanimously to adjourn at approximately 11:30 PM.

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STATE OF IOWA DEPARTMENT OF

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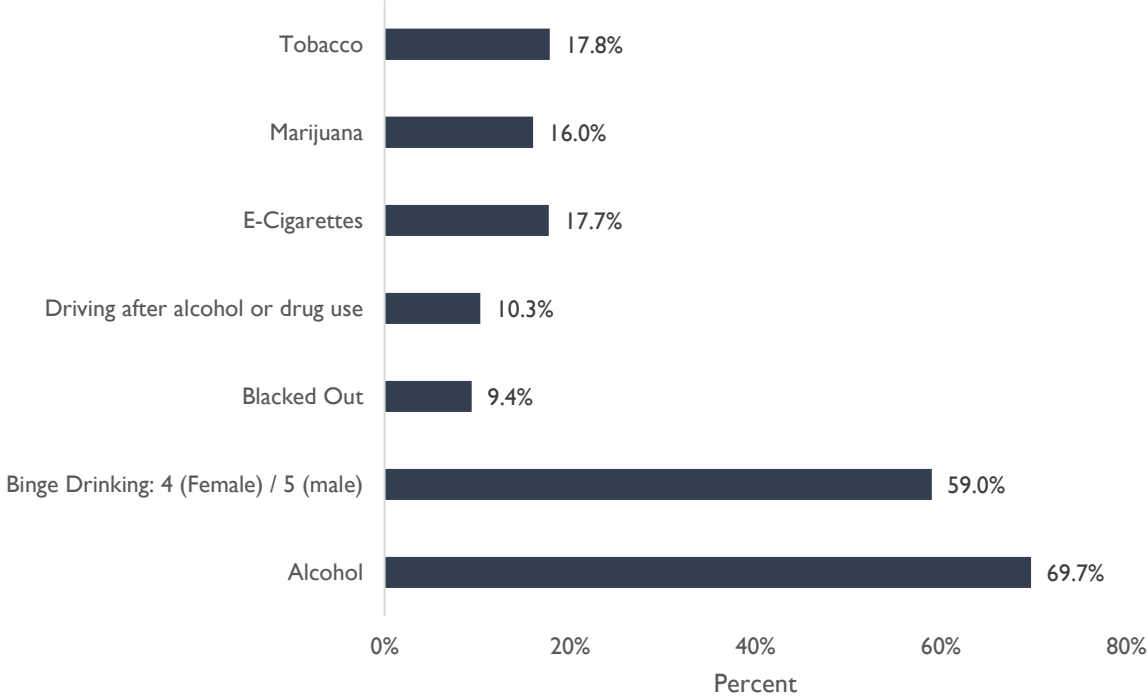
Youth and Young Adult Substance Use Trends

Past 30 Days Use: 2021 IYS by Grade

	6th	8th	11th
Alcohol	2%	6%	41%
Binge Drinking: 4(female) / 5(male)	<1%	2%	9%
Driving After Alcohol or Drugs	5%	5%	7%
Cigarettes	<1%	1%	3%
E-Cigarettes	1%	4%	13%
Marijuana	<1%	2%	8%

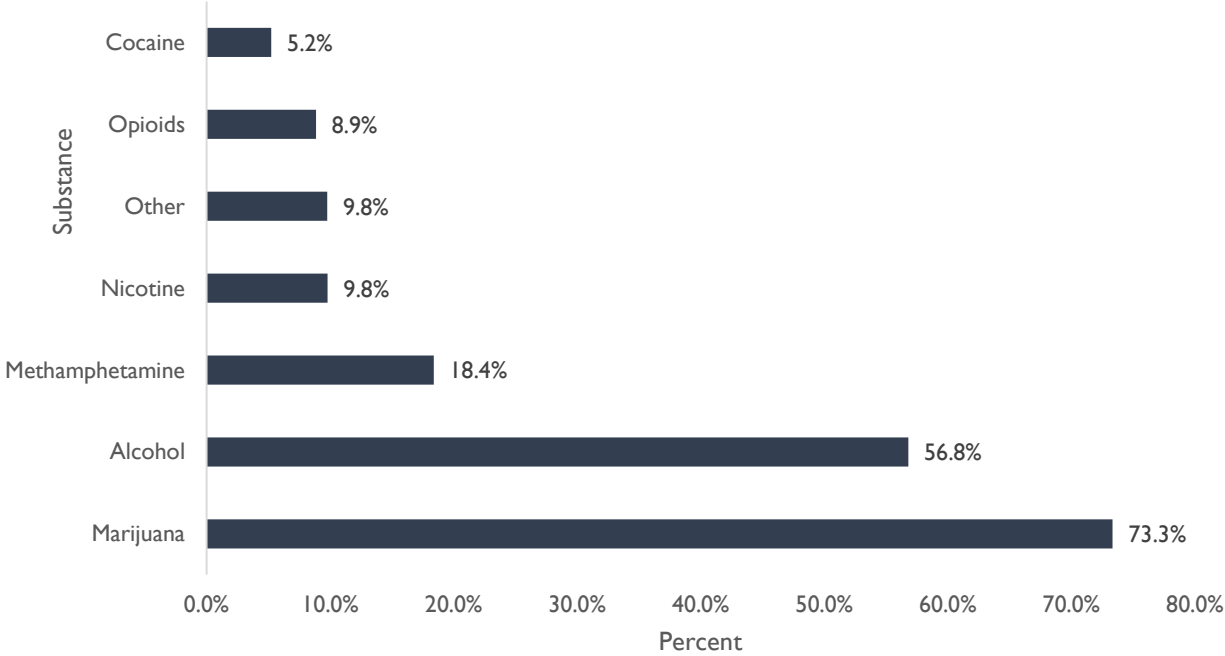
Iowa Youth Survey (IYS), 2021

2019 Iowa Young Adult Survey: Past 30 Days



Iowa Youth Survey (IYS), 2021

SUD Treatment Admissions: Substances Used Past 30 Days: Ages 15-24 (Calendar Year 2022)



Note: Data as reported by licensed treatment providers to the Department.

Iowa Behavioral Health Reporting System (IBHRS), 2022

Substance Involved Deaths by Age Group

	2017	2018	2019	2020	2021	2022*
0-24	31	24	20	38	44	35
25-34	60	68	80	89	119	102
35-44	86	57	75	91	94	97
45-54	93	64	77	97	93	95
55+	72	62	98	104	121	118
Total	342	275	350	419	471	447

Note: 2022 data are preliminary and will change as records are registered.

Bureau of Health Statistics

Contact Us

Questions may be directed to:

sapgdata@idph.iowa.gov

STATE OF IOWA DEPARTMENT OF

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State Board of Health: Fentanyl Awareness Campaign

Monica Wilke-Brown, LMSW
Opioid Response Grants
Project Director



Background

- The SA Bureau has several opioid-focused federal grants that fund a variety of initiatives across Prevention, Treatment, Recovery, and Harm Reduction. (SOR, OD2A, SPF-Rx)
- The current status of the opioid crisis is that illicit fentanyl is contaminating the illicit opioid (and other drugs!) supply, often pressed into fake pills that look legitimate.
- Illicitly manufactured fentanyl or related analogues are involved in a majority of the opioid-related deaths.
- Media efforts often have prevention as their goal, the Fake Pills campaign started as part of the SPF-Rx grant, and last fall an additional video and related materials were added through SOR grant funds.

Fake Pills Campaign Materials

DON'T

take anything not prescribed to you by a licensed medical professional.

LEARN MORE



NO

tomes nada que no te haya recetado un profesional médico con licencia.

OBTÉN MÁS INFORMACIÓN



**ONE OF THESE
PILLS IS
FAKE - AND
DEADLY.**

You won't know which one until it's too late.

2 out of every 5 fake pills that have fentanyl

**CONTAIN A
POTENTIALLY
LETHAL DOSE.**

According to DEA lab testing.

**DO YOU
KNOW**

where your pills are coming from?



**FAKE
PILLS CAN
CAUSE
REAL
HARM.**

THE TRUTH ABOUT COUNTERFEIT PILLS



Widely available and easy to purchase, counterfeit pills are making their way into communities at alarming rates, causing increases in substance use disorders, overdoses and, in some cases, death.

FAKE PILLS. REAL HARM.

Mass-produced counterfeit pills, touted as legitimate prescription medications, are not only sold locally but are now also broadly marketed through internet e-commerce sites and social media, appealing to audiences of all ages — including minors. These illegally purchased fake pills may contain no active ingredient(s), the wrong active ingredient(s) or the right ingredient(s) but in an incorrect quantity.

Dangerous, cheap and highly addictive drugs (e.g. methamphetamine, heroin, fentanyl) are frequently added to and disguised as prescription drugs like OxyContin®, Percocet® and Xanax®. Individuals using fake pills have no way of knowing what they may be taking — or the risk they may pose.

Overdoses are the leading cause of death for Americans between the ages of 18 to 45 years old.¹

MORE THAN MEETS THE EYE

Counterfeit pills often look nearly identical to their legitimate counterparts, in both design and packaging, making it practically impossible to know the difference outside of a lab test.

A majority of counterfeit pills resemble prescription opioids, such as oxycodone (OxyContin®, Percocet®), hydrocodone (Voodin®) and alprazolam (Xanax®), or stimulants, like amphetamines (Adderall®).



Counterfeit pills most commonly resemble oxycodone 30mg (MOM) pills, which can vary in color from white to blue. Street names for these pills include "Mexican Blues," "Blues" or "M-Blues."

Kids and teens are being targeted with fake pills in a variety of shapes and colors.

According to the CDC, overdose deaths linked to synthetic opioids, like fentanyl, tripled in the past two years, yet 73 percent of teens weren't aware that fake prescription pills could be made with fentanyl.

A DANGEROUS DOSE

Whether an individual is a regular substance user or someone experimenting for the first time, taking prescription medications not prescribed to the user by a licensed medical professional and dispensed by a registered pharmacist can be deadly. Counterfeit drugs may contain lethal amounts of fentanyl and methamphetamine.

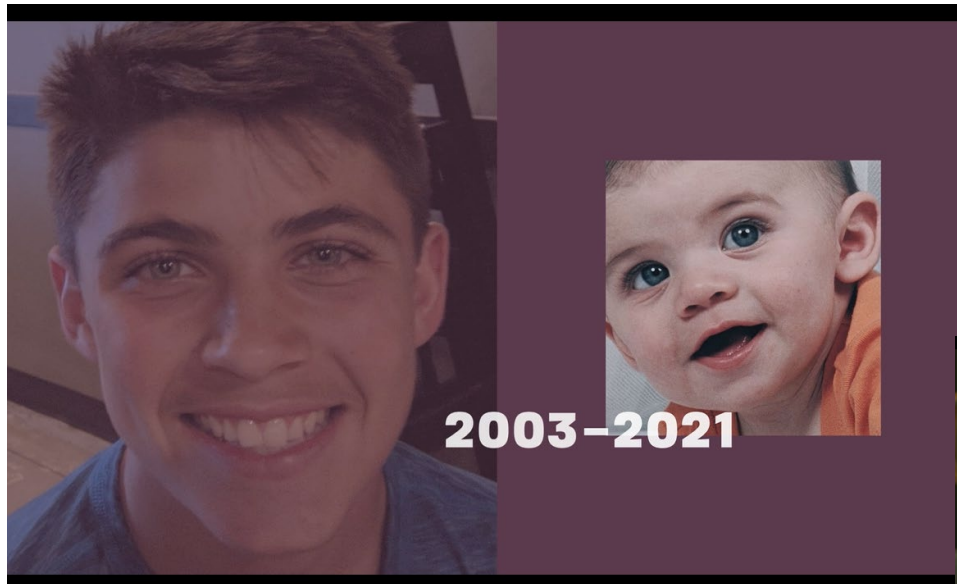


State health data for 2021 shows 83 percent of overdoses, involving opioids, in Iowa were linked to fentanyl, compared to 31 percent in 2018.²

According to the U.S. Drug Enforcement Administration (DEA), 2 out of every 5 tested counterfeit pills that have fentanyl as an ingredient contain a potentially lethal dose of about two milligrams — small enough to fit on the tip of a pencil. Fentanyl is approximately 100 times more potent than morphine and 50 times more potent than heroin. Synthetic opioids, like fentanyl, are the primary reason overdose deaths have increased since 2020, accounting for 80 percent of opioid-related deaths in the U.S.³

Video and Radio Spots started in January

🔗 Videos featuring the Kidd family who lost their son.



<https://www.youtube.com/watch?v=PA836e3IVdo>

Fake pills can cause real harm.

YOUR LIFE IOWA
IOWA HHS

LEARN MORE AT
[YourLifelowa.org/Fake-Pills](https://www.YourLifelowa.org/Fake-Pills)

Other Campaign information

YourLifelowa.org also hosts Fake Pills campaign stories with content on the following:

- How to Talk to Kids
- Kids and Substance Use
- What to watch for
- Five facts about Fentanyl

Recovery Stories

- https://www.youtube.com/watch?v=G5zxrjilRDk&list=PLsfcjTQBxPDFa66XW_SfyznUIRQoT4_iS&index=5

It Starts with Us

- Video and targeted messaging to law enforcement, corrections, and health care
- https://www.youtube.com/watch?v=mAvycn-puHA&list=PLsfcjTQBxPDFa66XW_SfyznUIRQoT4_iS&index=46

See the Person

- Video and messaging to combat stigma
- https://www.youtube.com/watch?v=7wPcm9_CGHI&list=PLsfcjTQBxPDFa66XW_SfyznUIRQoT4_iS&index=11

Be Prepared to Save a Life/ OD: Reverse it

- Video and messaging to promote naloxone
- https://www.youtube.com/watch?v=zZVT0nT_xZI

Contact

Monica Wilke-Brown, Opioid Response Project Director
monica.wilke-brown@idph.iowa.gov

PUBLIC HEALTH DEPARTMENT [641]

Adopted and Filed

The Public Health Department hereby amends Chapter 15, “Swimming Pools and Spas,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 135I.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 135I.

Purpose and Summary

The amendments are intended to provide more clarity to existing provisions or reduce duplication of provisions.

The amendments will do the following:

- Items 1 and 7, specifically in subparagraphs 15.4(1)“e”(2) and 15.51(1)“h”(2), remove the requirement for gas-fired swimming pool heaters to bear the seal of the American Gas Association (AGA). Beginning July 1, 2000, the markings on the valve bodies no longer have the AGA symbol cast into the product. In its place, the new industry certification of CSA US (Canadian Standards Association: United States) has been placed on the product. In recent years, AGA changed its name to IAS (International Approval Services). Since that time, CSA has purchased CGA (Canadian Gas Association), including AGA listing rights and the responsibility for monitoring manufacturing activities for certified products. There are requirements for listed and labeled equipment in other building codes, such as the plumbing code, mechanical code, and electrical code, so a separate requirement for listing and labeling of this equipment in the pool rules could result in conflicting requirements and multiple authorities having jurisdiction.

- Items 2, 4 and 9, specifically in subparagraphs 15.5(5)“d”(2), 15.5(21)“f”(1), and 15.52(5)“d”(2), remove the requirement that the data plate of gas-fired pool water heaters bear the AGA mark. This reference is outdated because the AGA mark is no longer in use and the CSA US standard is now used.

- Item 3, specifically in subparagraphs 15.5(13)“k”(1) and 15.5(13)“k”(2), changes terminology from lumens/ft² to footcandles (fc). This change will clarify the rule since footcandles is a more commonly used term than lumens/ft² to express the lighting level.

- Item 3, specifically in paragraph 15.5(13)“l,” removes a federal reference (CFR Title 16, Part 1207) which is not enforced by the United States Consumer Product Safety Commission (CPSC). Department staff have been in contact with CPSC to determine if the agency intends to enforce the standard, and it appears that it has not been enforced, and as such, the Department staff members feel that it should not be a basis for a deficiency under Iowa rule.

- Item 5, specifically by rescinding subrule 15.10(4), removes the requirement for training course providers to provide a list of names and addresses of individuals who have completed the training course. Historically, the program provided this information to pool and spa facilities to verify certification of staff. However, the training sponsors (typically the Pool & Hot Tub Alliance) are able to provide verification of certification by using the certificate number, by using a QR code, or by verifying the individual’s name. As such, it is duplicative for training providers to provide this information to the Department.

- Item 6, specifically by rescinding subrule 15.12(5), removes the requirement that training providers pay a fee of \$20 for each person who successfully completes the training course. Historically, the Department maintained a list of individuals who successfully passed the certification course. However, since that information is available from the Pool & Hot Tub

Alliance and other training providers, this is duplicative work.

- Item 8, specifically in numbered paragraph 15.51(4)“f”(2)“3,” changes the requirement for facilities to maintain purchase records for at least five years to the requirement that records be maintained for the life of the cover or grate. There are different service lives (e.g., 3-year, 5-year, 7-year, 10-year, 20-year) assigned by the manufacturer, so the compliance paperwork must be kept for the life of the cover rather than simply 5 years.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 25, 2023, as **ARC 6840C**. The Department received one comment in support of item #3. No changes from the notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 8, 2023.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request

by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 10, 2023.

The following rule-making action is adopted:

ITEM 1. Amend paragraph **15.4(1)“e”** as follows:

e. Swimming pool water heaters.

(1) Electric water heaters shall bear the seal of UL.

(2) Gas-fired water heaters ~~shall bear the seal of the AGA and~~ shall be equipped with a pressure relief valve.

(3) Fuel-burning water heaters shall be vented to the outside in accordance with the Iowa state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.

ITEM 2. Amend subparagraph **15.5(5)“d”(2)** as follows:

(2) Gas-fired pool water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. ~~The data plate of the heater shall bear the AGA mark.~~

ITEM 3. Amend paragraphs **15.5(13)“k”** and **“l”** as follows:

k. Lighting. Artificial lighting shall be provided at indoor swimming pools and at outdoor swimming pools which are to be used after sunset in accordance with the following:

(1) Underwater lighting of at least 8 lamp lumens/ft² or 0.5 watts/ft² of water surface area,

located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 ~~lumens/ft2~~ footcandles (fc) or 0.6 watts/ft2 of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 ~~lumens/ft2~~ footcandles (fc) or 2.0 watts/ft2 of swimming pool water surface area shall be provided.

1. Swimming pool slides. ~~Swimming pool slides shall meet the requirements of the January 1, 2004, product standard of the United States Consumer Product Safety Commission (CFR Title 16, Part 1207).~~ Swimming pool slides shall be installed in accordance with the manufacturer's recommendations.

ITEM 4. Amend subparagraph **15.5(21)“f”(1)** as follows:

(1) Gas-fired storage-type hot water heaters shall comply with the requirements of ANSI/AGA Z21.10.1-2001, or with the requirements of ANSI/AGA Z21.10.3-2001. ~~The heater shall bear the mark of the AGA.~~

ITEM 5. Rescind subrule **15.10(4)**.

ITEM 6. Rescind subrule **15.12(5)**.

ITEM 7. Amend subparagraph **15.51(1)“h”(2)** as follows:

(2) Gas-fired water heaters ~~shall bear the seal of the AGA and~~ shall be equipped with a pressure relief valve.

ITEM 8. Amend subparagraph **15.51(4)“f”(2)** as follows:

(2) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the

cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate is the design flow rate for the pump(s) directly connected to the outlet(s) in an outlet system. In the absence of better information, the maximum system flow rate is the capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for ~~at least five years from the time~~ the life of the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of the certification letter shall be kept at the facility for ~~at least five years from the certification date~~ the life of the cover/grate.

ITEM 9. Amend subparagraph **15.52(5)“d”(2)** as follows:

(2) Gas-fired spa water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. ~~The data plate of the heater shall bear the AGA mark.~~

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to intermediate care facilities for the intellectually disabled
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 64, “Intermediate Care Facilities for the Intellectually Disabled,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2.

Purpose and Summary

The Department completed a comprehensive review of Chapter 64 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making updates citations and references to pertinent federal law; aligns requirements for the purchase, transfer, assignment, or lease of a facility with current practices; and rescinds the adoption of federal standards that are duplicative of previously adopted federal law.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 64.5(1) as follows:

64.5(1) Within 48 hours, by letter, any reduction or loss of direct care professional or dietary staff lasting more than seven days which places the staffing ratio of the intermediate care facility for the intellectually disabled below that required ~~for licensing by 42 CFR 483.430(d)(3)~~. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

ITEM 2. Amend subrules 64.5(7) and 64.5(8) as follows:

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)

~~*c.* Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's intermediate care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee. (III)~~

64.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the intellectually disabled, the department shall, upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

ITEM 3. Amend paragraph **64.17(7)“c”** as follows:

c. For Title XIX residents, the department of ~~social services~~ health and human services shall continue funding for the temporary absence as provided under paragraphs “*a*” and “*b*” and in accordance with department of ~~social services~~ health and human services guidelines.

ITEM 4. Amend paragraph **64.18(2)“b”** as follows:

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, ~~unless the physician or qualified mental health professional determines the disclosure of the record or certain information contained in the record is contraindicated in which case the information will be deleted before the record is made available to the resident. This determination and the reasons for it must be documented in the resident's record by the physician or qualified mental health professional in collaboration with the resident's interdisciplinary team.~~ (II)

ITEM 5. Amend rule 481—64.34(135C) as follows:

481—64.34(135C) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 ~~as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C)~~ related to completion of criminal record

checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

ITEM 6. Amend subparagraph **64.36(5)“a”(3)** as follows:

(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. ~~(H)~~

ITEM 7. Amend subparagraph **64.36(6)“a”(3)** as follows:

(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. ~~(H)~~

ITEM 8. Amend rule 481—64.60(135C) as follows:

481—64.60(135C) Federal regulations adopted—conditions of participation. Regulations in 42 CFR Part 483, Subpart ~~D~~ I, Sections 410 to 480 ~~effective October 3, 1988~~, are adopted by reference and incorporated as part of these rules. A copy of these regulations is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

~~Classification of~~ The classifications for violations is 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).

ITEM 9. Rescind rule **481—64.61(135C)**.

ITEM 10. Amend **481—Chapter 64**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~10A.202, 10A.402 10A.702, 135C.2(3), 135C.2(6), 135C.6(1), 135C.14, 135C.14(8), 135C.25, 135C.25(3), 135C.32, 135C.36, 227.4, 235B.1(6), and 235B.3(11)~~ 235E.2.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to psychiatric medical institutions for children (PMIC)
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 41, “Psychiatric Medical Institutions for Children (PMIC),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135H.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135H.10.

Purpose and Summary

The Department completed a comprehensive review of Chapter 41 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making eliminates redundancy within Chapter 41 by referencing Iowa Code chapter 135H and pertinent federal law, and updates the process for renewal applications and the purchase, transfer, assignment, or lease of a PMIC to conform to current practices.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—41.1(135H) as follows:

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*” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy under Iowa Code chapter 148, 150 or 150A.~~

“*Physician assistant*” means a person licensed to practice under Iowa Code chapter 148C.

~~“*Psychiatric services*” means services provided under the direction of a physician which address mental, emotional, medical or behavioral problems.~~

~~“*Resident*” means a person who is less than 21 years of age and has been admitted by a physician to a psychiatric medical institution for children.~~

ITEM 2. Amend rule 481—41.2(135H) as follows:

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. and 2. No change.
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. No change.
5. The PMIC license fee set forth in Iowa Code section 135H.5; and
6. Evidence of:
 - ~~Accreditation by the joint commission on accreditation of health care organizations (JCAHO) in accordance with Iowa Code section 135H.6(1)“b”;~~
 - Department of public health certificate of need;
 - Department Approval of the department of human services determination of approval in accordance with Iowa Code section 135H.6(1)“e”; and
 - Compliance with the requirements of 135H.6(1)“f.”
 - ~~Three years under the direction of an agency which has operated a facility;~~
 - ~~Licensed under Iowa Code section 237.3(2)“a,” or~~

~~• Providing services exclusively to children or adolescents and the facility meets or exceeds the requirements for licensure under Iowa Code section 237.3(2)“a.”~~

This rule is intended to implement Iowa Code sections 135H.4, and 135H.5, and 135H.6.

ITEM 3. Amend rule 481—41.3(135H) as follows:

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; and
3. ~~A copy of any revisions to the department of human services application for a comprehensive care residential facility license.~~

41.3(1) Denial, suspension or revocation of a license. The department may deny, suspend or revoke a PMIC license for any of the following reasons: reasons set forth in Iowa Code section 135H.8.

- ~~a. The applicant or licensee failed to comply with the rules in this chapter;~~
- ~~b. A resident is a victim of cruelty or neglect because of the acts or omissions of the licensee;~~
- ~~c. The licensee permitted, aided or abetted in the commission of an illegal act in the institution; or~~
- ~~d. The applicant or licensee attempted to obtain or retain a license by fraudulent means, misrepresentation, or by submitting false information.~~

The department will issue notice of denial, suspension or revocation by certified mail or by personal service.

41.3(2) No change.

This rule is intended to implement Iowa Code sections 135H.8 and 135H.9.

ITEM 4. Amend rule 481—41.4(135H), introductory paragraph, as follows:

481—41.4(135H) Licenses for distinct parts. ~~Separate licenses may be issued for clearly identifiable parts of a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1. A distinct part must contain contiguous rooms in a separate wing or building or be on a separate floor of the facility. Distinct parts shall provide care and services of separate categories. 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.~~ 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:

ITEM 5. Amend rule 481—41.6(135H) as follows:

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; and
- ~~d. Within 30 days when a change in the category of license is sought.~~

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; and
- ~~c. Submit written authorization to the department permitting the department to release information of whatever kind from department files concerning the licensee's PMIC to the named prospective purchaser, transferee, assignee or lessee.~~

ITEM 6. Amend rule 481—41.9(135H) as follows:

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 ~~by the team described in subrules 41.13(2) and 41.13(3).~~ Certification must be made at the time of admission by an independent team for Medicaid recipients. For emergency admissions, the certification must be made by the team described in 41.13(135H) within 14 days after admission. ~~If an individual applies for Medicaid while in a PMIC, certification of need must be made by the team described in 41.13(135H) before a Medicaid agency authorizes payment in accordance with 42 C.F.R. Sections 441.152 and 441.153.~~

ITEM 7. Amend paragraph **41.16(2)“b”** as follows:

- b. Names and identities of all complainants; and

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to physician assistants
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 57, “Residential Care Facilities,” Chapter 65, “Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI),” and Chapter 71, “Subacute Mental Health Care Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 803.

Purpose and Summary

The proposed amendments update rules in accordance with changes included in 2022 Iowa Acts, House File 803. This legislation requires agencies that adopt rules pursuant to Iowa Code chapter 17A providing a power, privilege, right, or duty to a physician licensed under Chapter 148 to also provide the same power, privilege, right, or duty to a physician assistant licensed under Chapter 148C, as consistent with the scope of practice of the physician assistant as specified therein.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **57.6(2)“a”** as follows:

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.

ITEM 2. Amend rule **481—65.1(135C)**, definition of “Qualified mental health professional (QMHP),” as follows:

“*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 ~~variance~~ waiver procedures.

ITEM 3. Amend subparagraph **71.8(3)“a”(3)** as follows:

(3) Requires consultation with the attending physician, ~~or~~ 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;

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to violations by a health care facility
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 56, “Fining and Citations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2172.

Purpose and Summary

The proposed amendments update rules in accordance with changes included in 2022 Iowa Acts, House File 2172. The legislation updated citations to administrative rules subject to exception from provisions related to the self-identification and correction of deficiencies by health care facilities.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend subrule 56.3(4) as follows:

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 for those penalties arising pursuant to paragraphs “a” to “f”: as identified in Iowa Code section 135C.36(5).

a. Abuse.

- (1) Rule 481—57.39(135C);
- (2) Rule 481—58.43(135C);
- (3) 481—subrules 62.23(23) to 62.23(25);
- (4) Rule 481—63.37(135C);
- (5) Rule 481—64.33(235B);
- (6) Rule 481—65.15(135C);
- (7) 481—subrules 65.25(3) to 65.25(5); and
- (8) 42 CFR Section 483.420(d).

b. Personnel histories.

- (1) Iowa Code section 135C.33;
- (2) 481—subrule 57.12(3);
- (3) 481—subrule 58.11(3);
- (4) 481—subrule 62.9(5);
- (5) 481—subrule 63.11(3);
- (6) Rule 481—64.34(135C); and
- (7) 481—subrule 65.9(5).

c. Failure to implement physician's orders as required.

- (1) 481—paragraph 57.12(2) “d”;
- (2) 481—paragraph 58.19(2) “h”;
- (3) 481—paragraph 62.15(1) “a”;
- (4) 481—paragraph 63.11(2) “d”; and
- (5) 42 CFR Section 483.460(e)(4).

d. Failure to notify the physician of any accident, injury, or adverse change in a resident's condition.

- (1) 481—subrule 57.15(5);
- (2) 481—subrule 58.14(5); and
- (3) 481—paragraph 62.19(2) “e.”

e. Failure to administer all medications as ordered by the resident's physician.

- (1) 481—paragraph 57.12(2) “d”;
- (2) 481—paragraph 58.19(2) “a”;
- (3) 481—paragraph 63.11(2) “d”;
- (4) 481—subrule 64.4(9); and
- (5) 42 CFR Section 483.460(e)(4).

f. Failure to meet the fire safety rules and regulations promulgated by the state fire marshal.

- (1) ~~481 paragraph 58.28(1) "a";~~
- (2) ~~481 subrule 62.19(7);~~
- (3) ~~481 paragraph 63.23(1) "a"; and~~
- (4) ~~42 CFR Section 483.470(j).~~

~~g.~~ 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 ~~481 paragraphs 56.3(4) "a" to "f,"~~ 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 ~~E-mail~~ 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) ~~Date~~ The date the facility determined correction was completed; and
- (6) All documentation that substantiates the above information.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to hospice license standards
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 53, “Hospice License Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135J.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7(2) and 135J.7 and 2022 Iowa Acts, House File 803.

Purpose and Summary

The Department completed a comprehensive review of Chapter 53 in accordance with the requirement in Iowa Code section 17A.7(2), and the proposed amendments update the chapter to align with current practices, terminology, and federal requirements. The proposed amendments also add “physician assistant” to the attending physician qualifications in accordance with 2022 Iowa Acts, House File 803.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule ~~481—53.1(135J)~~, definitions of “Bereavement service” and “Home care provider,” as follows:

~~“Bereavement service” is support offered during the bereavement period to the family and friends of someone who has died~~ 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.

~~“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, home health hospice aides, homemakers, nurses, occupational therapists or physical therapists.~~

ITEM 2. Amend subrule 53.2(3) as follows:

53.2(3) Each hospice seeking licensure is surveyed before the initial license is issued and ~~biennially before a license is renewed~~ at least every 36 months thereafter.

ITEM 3. Amend subrule 53.2(5) as follows:

53.2(5) Hospices certified as Medicare providers by the department or accredited by ~~the Joint Commission on the Accreditation of Health Organizations~~ an organization approved by the Centers for Medicare and Medicaid Services for federal certification will be licensed without inspection.

ITEM 4. Rescind paragraph **53.4(1)“e.”**

ITEM 5. Reletter paragraphs **53.4(1)“f”** to **“j”** as **53.4(1)“e”** to **“i.”**

ITEM 6. Amend relettered paragraphs **53.4(1)“e”** and **“f”** as follows:

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;

ITEM 7. Amend subrules 53.5(1) and 53.5(2) as follows:

53.5(1) ~~At least quarterly, the~~ 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 ~~and families~~ 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) ~~At least quarterly, all~~ 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.

ITEM 8. Amend rule 481—53.6(135J) as follows:

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 to ~~practice medicine~~ pursuant to Iowa Code chapter 148, ~~150 or 150A~~ or 148C;
2. to 6. No change.

This rule is intended to implement Iowa Code section 135J.3(4).

ITEM 9. Amend rule 481—53.7(135J) as follows:

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, ~~150 or 150A~~. The medical director shall:

1. to 6. No change.
7. Participate in resolving conflicts regarding care to be provided; and
- ~~8. Name a qualified physician to be available in the medical director's absence; and~~
8. Participate in the development and review of patient ~~and family~~ care policies, procedures and protocols.

This rule is intended to implement Iowa Code section 135J.3(1).

ITEM 10. Amend rule 481—53.8(135J) as follows:

481—53.8(135J) Interdisciplinary team (IDT). The IDT shall establish a plan of care for each patient ~~and family~~ 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. ~~Attending physician~~ A doctor of medicine or osteopathy who is an employee of or under contract with the hospice;
- ~~d. Medical director;~~
- d. Patient care coordinator;
- ~~f. e. Staff Registered nurse;~~
- e. Social worker; and may include
- ~~h. Coordinator of volunteer service; and may include~~
- i. g. A spiritual pastoral or other counselor and others deemed appropriate by the hospice.

53.8(2) ~~Prior to or on the day~~ 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 ~~and family~~ needs.

53.8(3) Within ~~seven~~ 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 ~~seven~~ five calendar days of admission, the interdisciplinary team shall meet to develop a comprehensive written plan of care. The plan of care shall:

- a. to f. No change.

53.8(5) The IDT shall monitor and revise the plan of care on a regular basis. The team shall meet ~~weekly~~ 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).

ITEM 11. Amend subrule 53.9(2) as follows:

53.9(2) The nursing service staff shall:

- a. to e. No change.

- ~~f.~~ Develop and implement nursing service objectives, policies and procedures; and
 - ~~g.~~ Develop job descriptions for all nursing personnel;
 - ~~h.~~ Establish staff schedules to meet patient and family needs and ensure 24-hour service;
 - ~~i.~~ Develop and implement orientation and training programs;
 - ~~j.~~ Develop and implement performance evaluation for the nursing staff;
 - ~~k.~~ g. Assign duties to nurses and hospice aides consistent with their education and experience;
- and.
- ~~l.~~ Facilitate periodic meetings of the professional nursing staff to evaluate the nursing care provided by hospice personnel.

ITEM 12. Amend rule 481—53.11(135J) as follows:

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:

- ~~1.~~ a. Coordinate all aspects of patient care to ensure continuity, including care by all service disciplines in all care settings;
- ~~2.~~ 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;
- ~~3.~~ c. Facilitate communication between caregivers, patient and family;
- ~~4.~~ d. Maintain a roster of patients;
- ~~5.~~ e. Maintain a schedule for IDT review of care plans; ~~and~~
- ~~6.~~ 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).

ITEM 13. Amend rule 481—53.12(135J) as follows:

481—53.12(135J) Social services. ~~Social services shall be planned and provided or supervised by a person who has at least a bachelor's degree in social work from a school approved by the council on social work education.~~ 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:

- ~~1.~~ a. Consider the emotions and social support system of the patient ~~and family;~~

- ~~2. .~~ Assess the ability of the family and the patient to function socially and to deal with their emotions;
- ~~3. b.~~ Identify patient and family social service needs;
4. c. Participate on the IDT to develop and amend the plan of care;
5. d. Provide services in accordance with the plans of care developed by the IDT;
6. e. Document services provided and observations made regarding patient and family response and status; and
7. 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).

ITEM 14. Amend rule 481—53.14(135J) as follows:

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.

~~**53.14(1)** Each volunteer shall have at least 14 hours of education provided by the hospice before being assigned to a patient and family. The following topics shall be included in the educational program:~~

- ~~a.~~ Hospice concept and philosophy;
- ~~b.~~ Symptom control;
- ~~c.~~ Infection control;
- ~~d.~~ Home care skills;
- ~~e.~~ Safety measures and transfer techniques;
- ~~f.~~ Stress management;
- ~~g.~~ Communication needs;
- ~~h.~~ Psychosocial needs;
- ~~i.~~ Spiritual needs;
- ~~j.~~ Death, dying and grief; and
- ~~k.~~ Funerals and alternative rituals.

~~**53.14(2)** The hospice shall offer at least two hours of in-service training each quarter.~~

This rule is intended to implement Iowa Code section 135J.3(2).

ITEM 15. Amend rule 481—53.16(135J), introductory paragraph, as follows:

481—53.16(135J) Optional services. Optional services are services provided by the hospice which are not required. Examples are ~~home health~~ hospice aide, therapy and respite. The following apply to the provision of all optional services provided by a hospice:

ITEM 16. Amend rule 481—53.20(135J), introductory paragraph, as follows:

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 ~~three~~ six years following termination of services.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to nursing facilities
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 58, “Nursing Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2 and 2022 Iowa Acts, House File 803.

Purpose and Summary

The Department completed a comprehensive review of Chapter 58 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making removes outdated, unnecessary, and redundant content by streamlining language, referencing pertinent state and federal law, and conforming rules with current and long-standing practices. The proposed amendments also update rules in accordance with changes included in 2022 Iowa Acts, House File 803, providing the same power, privilege, right, or duty to a physician assistant licensed under Iowa Code chapter 148C as to a physician, as is consistent with the scope of practice of the physician assistant as specified therein.

The Department does not believe that the proposed amendments pose a financial hardship to any regulated entity or individual. Rather, the proposed amendments eliminate unnecessary language from the Iowa Administrative Code.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street.
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **481—58.1(135C)**, definitions of “Ambulatory” and “Qualified intellectual disabilities professional,” as follows:

“*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.

“*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.

ITEM 2. Rescind the definition of “Chairfast” in rule **481—58.1(135C)**.

ITEM 3. Amend rule 481—58.4(135C) as follows:

481—58.4(135C) General requirements.

58.4(1) to 58.4(4) No change.

58.4(5) ~~No~~ A nursing facility shall not be licensed for more beds than have been approved by the health facilities ~~construction review committee~~ 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) ~~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~~ 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)

ITEM 4. Amend rule 481—58.5(135C) as follows:

481—58.5(135C) Notifications required by the department. The department shall be notified:

58.5(1) Within 48 hours, ~~by letter,~~ of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing ratio requirements below ~~that those~~ required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

58.5(2) ~~Of Thirty days before~~ any proposed change in the nursing facility's functional operation or addition or deletion of required services; (III)

58.5(3) to 58.5(6) No change.

58.5(7) Prior to the purchase, transfer, assignment, or lease of a nursing facility, the licensee shall:

a. No change.

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

~~c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)~~

~~**58.5(8)** Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a nursing facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.~~

ITEM 5. Amend paragraph **58.8(2)“a”** as follows:

a. The distance between the two facilities shall be no greater than ~~50~~ 75 miles. (II)

ITEM 6. Amend paragraph **58.8(4)“b”** as follows:

b. The facility shall notify the department in writing within ~~ten business~~ 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)

ITEM 7. Amend subrules 58.10(8) and 58.10(9) as follows:

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/ncidod/dhqp/index.html~~ 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. to c. No change.

ITEM 8. Amend subrule 58.11(1) as follows:

58.11(1) *General qualifications.*

a. and b. No change.

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) to (4) No change.

Refer to ~~Guidelines for Infection Control in Hospital Personnel,~~ guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, ~~PB85-923402~~ to determine (1), (2), (3) and (4).

~~d. Reserved.~~

~~e. 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)

~~f. 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)

~~g.~~ Rescinded, effective 7/14/82.

~~h. f.~~ The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

~~i.~~ Those persons employed as nurse's aides, orderlies, or attendants in a nursing facility who have not completed the state-approved 75-hour nurse's aide program shall be required to participate in a structured on-the-job training program of 20 hours' duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall the aide's hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the state-approved 75-hour course may model skills to be learned.

Further, such personnel shall be enrolled in a state-approved 75-hour nurse's aide program to be completed no later than six months from the date of employment. If the state-approved 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 75-hour course and is not a substitute in whole or in part. The 75-hour program, approved by the department, may be provided by the facility or academic institution.

Newly hired aides who have completed the state-approved 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file.

All personnel administering medications must have completed the state-approved training program in medication administration. (II)

~~j. g.~~ There shall be an organized ongoing in-service educational and training program planned in advance for all personnel in all departments. (II, III)

~~k. 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, orderlies or attendants in a nursing facility who have received training other than the Iowa state-approved program, must pass a challenge examination 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 in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

ITEM 9. Amend subrule 58.11(2) as follows:

58.11(2) Nursing supervision and staffing.

~~a.~~ Rescinded IAB 8/7/91, effective 7/19/91.

~~b. a.~~ Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

~~e. 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 posted at the nurse's station readily available to nurses. (III)

~~d. 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)

~~e. 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)

~~f.~~ Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

~~g.~~ The minimum hours of resident care personnel required for residents needing intermediate nursing care shall be 2.0 hours per resident day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. If the maximum medical assistance rate is reduced below the 74th percentile, the requirement will return to 1.7 hours per resident per day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. (II, III)

~~h.~~ The health service supervisor's hours worked per week shall be included in computing the 20 percent requirement.

~~i. 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)

~~j. 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) to (3) No change.

~~k. g.~~ Facilities with 75 or more beds must employ a health service supervisor who is a registered nurse. (II)

~~l. 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)

~~m. i.~~ Physician's and other qualified health care practitioner's orders shall be implemented by qualified personnel. (II, III)

ITEM 10. Amend paragraph **58.12(1)**"g" as follows:

~~g.~~ A nursing facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. 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)

ITEM 11. Amend subrule 58.14(2) as follows:

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)

ITEM 12. Amend subrule 58.14(6) as follows:

58.14(6) A schedule listing the names and telephone numbers of the physicians shall be ~~posted in each nursing station~~ readily available to nursing staff. (III)

ITEM 13. Amend paragraph **58.15(2)**"c" as follows:

~~c. Physical examination:~~ The record of the admission physical examination and described in subrule 58.14(2). It shall include the resident's name, sex, age, pertinent medical history, shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, tuberculosis status, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential and results of any diagnostic procedures. The report of the physical examination shall be signed by the physician. and any other information required to adequately assess the resident and whether the facility is able to meet the resident's needs; (III)

ITEM 14. Amend paragraph **58.15(2)**"e" as follows:

~~e. Physician's orders~~ Orders for medication, treatment, and diet in writing and signed by the ~~physician~~ an appropriate qualifying health care practitioner quarterly; (III)

ITEM 15. Amend paragraph **58.15(4)**"b" as follows:

~~b.~~ Report of incidents shall be in detail on a printed incident report form or electronic form. (III)

ITEM 16. Amend subparagraph **58.21(6)“c”(2)** as follows:

(2) Be employed in the same facility ~~for and work~~ at least ~~six consecutive months~~ 480 hours prior to the start of the medication aide course. ~~This requirement is not subject to waiver.~~

ITEM 17. Amend paragraph **58.21(6)“d”** as follows:

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) to (4) No change.

ITEM 18. Amend subrule 58.21(9) as follows:

58.21(9) Records shall be kept of all ~~Schedule II drug~~ medications received and dispensed in accordance with ~~the controlled drug and substance Act~~ 42 CFR 483.45(b)(2) and federal interpretive guidelines. (III)

ITEM 19. Amend paragraph **58.21(11)“b”** as follows:

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~~.

ITEM 20. Amend paragraph **58.21(13)“a”** as follows:

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)

ITEM 21. Amend paragraph **58.21(14)“a”** as follows:

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)

ITEM 22. Amend paragraphs **58.21(14)“j”** and **“k”** as follows:

j. Instructions shall be requested of the Iowa board of pharmacy ~~examiners~~ concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

k. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident’s current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy ~~examiners~~. (II, III)

ITEM 23. Amend paragraph **58.21(14)“r”** as follows:

r. A pharmacy operating in connection with a nursing facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy ~~examiners~~. (III)

ITEM 24. Amend subparagraph **58.22(1)“d”(1)** as follows:

(1) The ~~physician’s~~ prescription for treatment; (III)

ITEM 25. Amend subparagraph **58.22(2)“d”(1)** as follows:

(1) Develop the treatment plan and administer or direct treatment in accordance with the ~~physician’s~~ prescription and rehabilitation goals; (III)

ITEM 26. Amend subrules 58.24(2) to 58.24(4) as follows:

58.24(2) Dietary staffing. The facility shall employ dietary staff in accordance with 42 CFR 483.60(a).

a. ~~The facility shall employ a qualified dietary supervisor who:~~

~~(1) Is a qualified dietitian as defined in 58.24(2)“e”; or~~

~~(2) Is a graduate of a dietetic technician training program approved by the Academy of Nutrition and Dietetics; or~~

~~(3) Is a certified dietary manager certified by the certifying board for dietary managers of the Association of Nutrition and Foodservice Professionals and maintains that credential through 45 hours of ANFP-approved continuing education; or~~

~~(4) Has completed an ANFP-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or~~

~~(5) Has documented evidence of at least two years’ satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 24 months of the date of enrollment; or~~

~~(6) Has completed the 90-hour training course approved by the department and is 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. (II, III)~~

b. and c. No change.

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 dietician’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 as outlined under the rules pertaining to staff hygiene 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. to h. No change.

58.24(3) Nutrition and menu planning.

a. ~~Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with the physician’s 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) The facility shall offer snacks at bedtime daily. 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. (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. to g. No change.

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. and *d.* No change.

ITEM 27. Amend subrule 58.26(2) as follows:

58.26(2) Coordination of activities program.

a. No change.

b. Staffing for the activity program shall be ~~provided on the minimum basis of 35 minutes per licensed bed per week~~ sufficient to meet the residents' activity needs. (II, III)

~~*c.* The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)~~

d. 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)

e. d. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

ITEM 28. Rescind and reserve rule ~~481—58.27(135C)~~.

ITEM 29. Amend paragraph **58.35(1)“b”** as follows:

b. ~~Battery operated, portable~~ 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)

ITEM 30. Amend subrule 58.35(5) as follows:

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)

ITEM 31. Amend paragraph **58.38(3)“b”** as follows:

b. There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by ~~58.10(8)“h,” 481—paragraph 59.12(10)“h,” or 481—paragraph 64.12(14)“h.”~~ generally accepted infection control standards. (I, II, III)

ITEM 32. Amend paragraph **58.38(3)“f”** as follows:

f. Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided ~~and, as a minimum, include the following:~~ (III)

Bath basins	Rectal tubes
Soap containers	Catheters and catheterization equipment
Denture cups	Douche nozzle
Emesis basins	Oxygen therapy equipment
Mouthwash cups	Naso-gastric feeding equipment
Bedpans	Wheelchairs

Urinals	Moisture-proof draw sheets
Enema equipment	Moisture-proof pillow covers
Commodes	Moisture-proof mattress covers
Quart graduate measure	Foot tubs
Thermometer for measurement of bath water temperature	Metal pitcher
Oral thermometer	Disinfectant solutions
Rectal thermometer	Alcohol
Basins for sterilizing thermometers	Lubricating jelly
Basins for irrigations	Skin lotion
Asepto-syringes	Applicators
Sphygmomanometer	Tongue blades
Paper towels	Toilet paper
Paper handkerchiefs	Rubber gloves or disposable gloves
Insulin syringes	Scales for nonambulatory patients
2-cc hypodermic syringes	Tourniquet
Weight scales	Suction machine
Hypodermic needles	Medicine dispensing containers
Stethoscope	Bandages
Ice caps	Adhesive
Hot water bottles	Portable linen hampers
	Denture identification equipment
	Tracheotomy care equipment

ITEM 33. Amend subrule 58.39(2) as follows:

58.39(2) Policies and procedures shall address the admission and retention of persons with histories of dangerous or disturbing behavior. For the purposes of the subrule, persons with histories of dangerous or disturbing behavior are those persons who have been found to be seriously mentally impaired pursuant to Iowa Code section 229.13 ~~or 812.1~~ within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

a. to c. No change.

ITEM 34. Amend paragraphs **58.39(9)“d”** and **“e”** as follows:

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 ~~Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46)~~. A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident’s (or responsible party’s) written informed consent must be received prior to participation. (II)

ITEM 35. Amend subparagraph **58.40(5)“a”(3)** as follows:

(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. (H)

ITEM 36. Amend subparagraph **58.40(6)“a”(3)** as follows:

(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. (H)

ITEM 37. Rescind paragraph **58.43(7)“j.”**

ITEM 38. Reletter paragraphs **58.43(7)“k”** to **“m”** as **58.43(7)“j”** to **“l.”**

ITEM 39. Amend subrule 58.44(3) as follows:

58.44(3) The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, ~~unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record.~~ (II)

ITEM 40. Amend rule 481—58.46(135C) as follows:

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)

~~**58.46(1)** Residents may not be used to provide a source of labor for the facility against their will. Physician's approval is required for all work programs. (I, II)~~

~~**58.46(2)** If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II)~~

~~**58.46(3)** Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)~~

ITEM 41. Amend rule 481—58.47(135C) as follows:

481—58.47(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

~~58.47(1)~~ Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

~~58.47(2)~~ 58.47(1) 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: Residents shall be permitted to receive visitors in accordance with 42 CFR 483.10(f)(4) and the federal interpretive guidelines. (II)

a.—The resident refuses to see the visitor(s). (II)

b.—The resident's physician documents specific reasons why such a visit would be harmful to the resident's health. (II)

c.—The visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

~~58.47(3)~~ 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(4)~~ 58.47(3) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

~~58.47(5)~~ 58.47(4) Telephones consistent with ANSI standards (405.1134(e)) 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(6)~~ 58.47(5) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

~~58.47(7)~~ 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(8)~~ 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)

ITEM 42. Rescind subrule **58.49(2)**.

ITEM 43. Renumber subrules **58.49(3)** to **58.49(5)** as **58.49(2)** to **58.49(4)**.

ITEM 44. Amend subrules 58.50(2) and 58.50(3) as follows:

58.50(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, ~~unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident.~~ (II)

58.50(3) Family members shall be permitted to share a room, if available, if requested by both parties, ~~unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident.~~ (II)

ITEM 45. Amend rule 481—58.51(135C) as follows:

481—58.51(135C) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The Each resident shall have the right to choose the resident's Medicare Prescription Drug Benefit Plan at 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)

ITEM 46. Rescind and reserve rule **481—58.53(135C)**.

ITEM 47. Amend rule 481—58.54(73GA,ch 1016), parenthetical implementation statute, as follows:

481—58.54(73GA,~~ch 1016~~ 135C) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).

ITEM 48. Amend subrule 58.54(1) as follows:

58.54(1) A nursing facility which chooses to care for residents in a distinct part shall obtain a license for a CCDI unit or facility. In the case of a distinct part, this license will be in addition to its ~~ICF~~ nursing facility license. The license shall state the number of beds in the unit or facility. (III)

a. and *b.* No change.

ITEM 49. Rescind the implementation sentence in rule **481—58.54(73GA,ch 1016)**.

ITEM 50. Amend subrule 58.56(1) as follows:

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~~ 42 CFR ~~483.42~~ 483.15, admission, transfer and discharge rights.

ITEM 51. Amend **481—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~10A.202~~, 10A.402, 135C.6(1), 135C.14, ~~135C.25~~, 135C.32, 135C.36 and 227.4 and ~~1990 Iowa Acts, chapter 1016~~.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to boarding homes
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 66, “Boarding Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135O.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135O.2.

Purpose and Summary

The Department completed a comprehensive review of Chapter 66 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making clarifies current practices, updates citations, and removes unnecessary text.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—66.1(83GA,SF484), parenthetical implementation statute, as follows:

481—66.1(83GA,SF484 1350) Definitions.

ITEM 2. Adopt the following new definition of “Assistance with activities of daily living” in rule **481—66.1(83GA,SF484)**:

“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.

ITEM 3. Amend rule **481—66.1(83GA,SF484)**, definition of “Probable cause,” as follows:

“*Probable cause*” means a reasonable suspicion to believe that a boarding home is in violation of ~~2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 1350]~~, 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.

ITEM 4. Amend rule 481—66.2(83GA,SF484) as follows:

481—66.2(83GA,SF484 1350) Registration of boarding homes.

66.2(1) A boarding home shall ~~file a statement of complete and submit to the department the boarding home registration with the department form located on the department's website within 60 days of commencing operations.~~

~~a. Boarding homes in operation on January 1, 2010, or after shall register with the department within 60 days of commencing operations.~~

~~b. Boarding homes in operation prior to January 1, 2010, shall register with the department no later than March 1, 2010.~~

~~66.2(2)~~ The statement of registration form may be submitted electronically via an ~~Internet-based system 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. to c.~~ No change.

~~d.~~ Contact information for the owner, lessee, and manager, including telephone number, mailing address, and ~~E-mail~~ email address;

~~e. to h.~~ No change.

66.2(4) and **66.2(5)** No change.

ITEM 5. Amend rule 481—66.3(83GA,SF484) as follows:

481—66.3(83GA,SF484 1350) Occupancy reports. ~~See rule 481—66.1(83GA,SF484) for the definition of “known.”~~

66.3(1) Each boarding home shall ~~file an occupancy report annually~~ 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).

a. ~~For new boarding home registrations, an occupancy report shall be filed along with the initial statement of registration. The occupancy report that accompanies the initial statement of registration shall provide information as of the last day of the preceding month.~~

b. ~~After the initial registration, registrants shall submit a completed occupancy report by January 31 of each year with information current as of December 31 of the preceding year.~~

66.3(2) The occupancy report may be submitted electronically via an Internet-based system; 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.

~~**66.3(3)**~~ **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. to j. No change.

ITEM 6. Amend rule 481—66.4(83GA,SF484) as follows:

481—66.4(83GA,SF484 135O) 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 of Inspections and Appeals, Complaint/Incident Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083, or by department in writing, by use of the complaint hotline, telephone at 1-877-686-0027 or through the department's website at dia.iowa.gov. The Web site address is https://dia-hfd.iowa.gov/DIA_HFD/Home.do.~~

(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) Time frames**~~ Initiation of investigations and time frames for investigation of complaints. Upon receipt of a complaint made in accordance with this rule, the department shall make a preliminary review of the complaint to determine if probable cause exists to investigate the complaint. If probable cause exists, an 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, as provided in rule 481—66.5(83GA,SF484), within 45 working days. If there is the likelihood of immediate danger, the department shall initiate an investigation of the boarding home within 2 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) Submission of all complaints to core multidisciplinary team. A copy of all complaints and the department's initial determination whether to investigate the complaint shall be sent to the core multidisciplinary agencies: the department of human services, the state fire marshal of the department of public safety, and the department of justice. If the department has determined not to initiate an investigation, the members of the core multidisciplinary team may recommend the initiation of, and the department shall initiate, an investigation.~~

~~66.4(5) 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(6) 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(7) 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.

ITEM 7. Rescind and reserve rule ~~481—66.5(83GA,SF484)~~.

ITEM 8. Amend rule ~~481—66.6(83GA,SF484)~~ as follows:

~~481—66.6(83GA,SF484 135O) Penalties.~~ The director shall consider the following when determining whether to assess a penalty for violation of ~~2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 135O]; Iowa Code chapter 135O~~ or rules adopted pursuant to ~~2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 135O]~~ thereunder, and when determining the amount of the penalty:

1. to 5. No change.

ITEM 9. Amend rule ~~481—66.7(83GA,SF484)~~ as follows:

~~481—66.7(83GA,SF484 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 resulting from a complaint investigation or other investigation of the multidisciplinary team and its individual members;~~

~~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 ~~Web site~~ website at ~~https://dia-hfd.iowa.gov/DIA-HFD/Home.de~~ dia-hfd.iowa.gov.

ITEM 10. Amend ~~481—Chapter 66~~, implementation sentence, as follows:

These rules are intended to implement ~~2009 Iowa Acts, Senate File 484~~ Iowa Code chapter 135O.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to minimum physical standards for residential care facilities and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to rescind Chapter 60, “Minimum Physical Standards for Residential Care Facilities,” and adopt a new Chapter 60 with the same title, Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7 and 135C.2.

Purpose and Summary

The Department completed a comprehensive review of Chapter 60 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making rescinds and adopts a new Chapter 60, which incorporates by reference generally accepted design and construction standards for the construction and renovation of health care facilities.

The Department requested the assistance of the Building Code Bureau of the State Fire Marshal’s office to review the rules pertaining to minimum physical standards for residential care facilities. During the review process, the Building Code Bureau compared the provisions of existing Chapter 60 against other applicable building codes and standards and determined that many of the provisions of the current chapter were outdated, unenforceable, or irrelevant. The new Chapter 60 aligns more closely with the requirements for other health care facilities licensed pursuant to Iowa Code chapter 135C and incorporates the following pertinent standards:

- 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities;
- 661—Chapter 301, State Building Code—General Provisions, and State Building Code for I-1 Condition 2 occupancies;
- 641—Chapter 25, State Plumbing Code; and
- 661—Chapter 302, State Building Code—Accessibility of Buildings and Facilities Available to the Public.

Consideration is given to existing residential care facilities, which are deemed to comply if the facilities followed prior versions of Chapter 60 at the time of their construction or renovation. Essentially, this rule making omits from new Chapter 60 design and construction standards contained within the administrative rules of the Department of Public Safety, State Building Code Bureau. The new Chapter 60, therefore, focuses on those physical standards directly related to the care of residential care facility residents, including the maintenance of specialized units or rooms.

The Department does not believe that the proposed amendment poses a financial hardship on any regulated entity or individual. Rather, adoption of the amendment will eliminate redundant language from the Iowa Administrative Code.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6 .

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind 481—Chapter 60 and adopt the following **new** chapter in lieu thereof:

CHAPTER 60

MINIMUM PHYSICAL STANDARDS FOR RESIDENTIAL CARE FACILITIES

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).

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.

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).

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.

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.

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.

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.

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, workcounter, 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)

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.

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 construction and installation of equipment of the dietetic service area shall comply with or exceed the minimum standards set forth in the "Food Service Manual" (DHEW Publication No. (FDA) 78-2081, 1976 Edition). (III)

c. The dietetic service area shall provide food serving facilities for residents and staff outside the food preparation area. (III)

d. The dishwashing area shall be provided with mechanical dishwashing equipment. (III) Either conventional or chemical dishwashing equipment may be used.

(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)

e. 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)

f. 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)

g. There shall be refrigerated storage for at least a three-day supply of perishable food. (III)

h. There shall be available storage for at least a seven-day supply of staple food. (III)

i. Provisions for maintaining sanitary waste disposal and storage shall be provided on the premises. (III)

j. 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)

k. 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.

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, 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.

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)

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.

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)

These rules are intended to implement Iowa Code section 135C.14.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to health care facilities administration and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 50, “Health Care Facilities Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2.

Purpose and Summary

The Department completed a comprehensive review of Chapter 50 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making updates citations and removes outdated, unnecessary, and redundant content. It also updates rules related to background checks in accordance with Iowa Code chapter 135Q.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual. Rather, the proposed amendments eliminate redundant language from the Iowa Administrative Code.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **50.3(3)“f”** as follows:

f. Residential care facilities ~~for the intellectually disabled, three- to five-bed license,~~
481—Chapters 60 and 63 481—Chapter 63;

ITEM 2. Amend rule 481—50.6(10A) as follows:

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 ~~ten~~ 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 ~~ten~~ 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) and **50.6(4)** No change.

ITEM 3. Amend rule 481—50.7(10A,135C) as follows:

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

50.7(1) No change.

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, etc.).

50.7(3) to **50.7(7)** No change.

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapter ~~235B and 2008 Iowa Acts, House File 2591~~ 235E, which ~~require~~ requires reporting of dependent adult abuse.

ITEM 4. Rescind rule 481—50.8(22,135B,135C) and adopt the following **new** rule in lieu thereof:

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.

ITEM 5. Amend subrule **50.9(1)**, definitions of "Employed in a facility" and "Employee," as follows:

"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., ~~temporary~~ health care employment agency, private duty, Medicare/Medicaid or independent contractors).

ITEM 6. Amend paragraph **50.9(3)"b"** as follows:

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 ~~maiden name~~ prior name(s), if applicable, with the background check request. (I, II, III)

ITEM 7. Amend subrule 50.9(11) as follows:

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

ITEM 8. Amend paragraph **50.11(1)"a"** 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/DIA_HFD/Home.de~~ dia-hfd.iowa.gov.

ITEM 9. Amend paragraph **50.11(2)“a”** as follows:

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

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to intermediate care facilities for the intellectually disabled

The Inspections and Appeals Department (Department) hereby amends Chapter 64, “Intermediate Care Facilities for the Intellectually Disabled,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2.

Purpose and Summary

The Department completed a comprehensive review of Chapter 64 in accordance with the requirement in Iowa Code section 17A.7(2). This rule making updates citations and references to pertinent federal law; aligns requirements for the purchase, transfer, assignment, or lease of a facility with current practices; and rescinds the adoption of federal standards that are duplicative of previously adopted federal law.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as ARC 6812C. No public comment was received and no changes have been made from the noticed filing.

Adoption of Rule Making

This rule making was adopted by the Department on **March 15, 2023**.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its **regular monthly meeting** or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa

Code section 17A.8(6).

Effective Date

This rule making will become effective on **May 10, 2023**.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 64.5(1) as follows:

64.5(1) Within 48 hours, by letter, any reduction or loss of direct care professional or dietary staff lasting more than seven days which places the staffing ratio of the intermediate care facility for the intellectually disabled below that required for licensing by 42 CFR 483.430(d)(3). No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

ITEM 2. Amend subrules 64.5(7) and 64.5(8) as follows:

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)
- ~~c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's intermediate care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee. (III)~~

~~**64.5(8)** Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the intellectually disabled, the department shall, upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.~~

ITEM 3. Amend paragraph **64.17(7)“c”** as follows:

c. For Title XIX residents, the department of ~~social services~~ health and human services shall continue funding for the temporary absence as provided under paragraphs “a” and “b” and in accordance with department of ~~social services~~ health and human services guidelines.

ITEM 4. Amend paragraph **64.18(2)“b”** as follows:

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, ~~unless the physician or qualified mental health professional determines the disclosure of the record or certain information contained in the record is contraindicated in which case the information will be deleted before the record is made available to the resident. This determination and the reasons for it must be documented in the resident's record by the physician or qualified mental health professional in collaboration with the resident's interdisciplinary team.~~ (II)

ITEM 5. Amend rule 481—64.34(135C) as follows:

481—64.34(135C) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 ~~as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C)~~ related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

ITEM 6. Amend subparagraph **64.36(5)“a”(3)** as follows:

(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. (H)

ITEM 7. Amend subparagraph **64.36(6)“a”(3)** as follows:

(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. (H)

ITEM 8. Amend rule 481—64.60(135C) as follows:

481—64.60(135C) Federal regulations adopted—conditions of participation. Regulations in 42 CFR Part 483, Subpart ~~D~~ **I**, Sections 410 to 480 ~~effective October 3, 1988~~, are adopted by reference and incorporated as part of these rules. A copy of these regulations is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

~~Classification of~~ The classifications for violations is 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).

ITEM 9. Rescind rule **481—64.61(135C)**.

ITEM 10. Amend **481—Chapter 64**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~10A.202, 10A.402, 10A.702, 135C.2(3), 135C.2(6), 135C.6(1), 135C.14, 135C.14(8), 135C.25, 135C.25(3), 135C.32, 135C.36, 227.4, 235B.1(6), and 235B.3(1)~~ 235E.2.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to psychiatric medical institutions for children (PMIC)

The Inspections and Appeals Department (Department) hereby amends Chapter 41, “Psychiatric Medical Institutions for Children (PMIC),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104 and 135H.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2), and 135H.10.

Purpose and Summary

The Department completed a comprehensive review of Chapter 41 in accordance with the requirement in Iowa Code section 17A.7(2). This rule making eliminates redundancy within Chapter 41 by referencing Iowa Code chapter 135H and pertinent federal law, and updates the process for renewal applications and the purchase, transfer, assignment, or lease of a PMIC to conform to current practices.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as ARC 6813C. No public comment was received and no changes have been made from the noticed filing.

Adoption of Rule Making

This rule making was adopted by the Department on **March 15, 2023**.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual

or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on **May 10, 2023**.

The following rule-making actions are adopted:

ITEM 1. Amend rule 481—41.1(135H) as follows:

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”* means a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy under Iowa Code chapter 148, 150 or 150A.~~

“Physician assistant” means a person licensed to practice under Iowa Code chapter 148C.

~~*“Psychiatric services”* means services provided under the direction of a physician which address mental, emotional, medical or behavioral problems.~~

~~*“Resident”* means a person who is less than 21 years of age and has been admitted by a physician to a psychiatric medical institution for children.~~

ITEM 2. Amend rule 481—41.2(135H) as follows:

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. and 2. No change.
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. No change.
5. The ~~PMIC license~~ fee set forth in Iowa Code section 135H.5; and
6. Evidence of:

~~Accreditation by the joint commission on accreditation of health care organizations (JCAHO) in accordance with Iowa Code section 135H.6(1)“b”;~~

Department of public health certificate of need;

~~Department~~ Approval of the department of human services ~~determination of approval in accordance with Iowa Code section 135H.6(1)“e”;~~ and

~~Three years under the direction of an agency which has operated a facility:~~

● ~~Licensed under Iowa Code section 237.3(2)“a,” or~~

● ~~Providing services exclusively to children or adolescents and the facility meets or exceeds the requirements for licensure under Iowa Code section 237.3(2)“a.”~~

This rule is intended to implement Iowa Code sections 135H.4, and 135H.5, and 135H.6.

ITEM 3. Amend rule 481—41.3(135H) as follows:

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; ~~and~~
3. ~~A copy of any revisions to the department of human services application for a comprehensive care residential facility license.~~

41.3(1) Denial, suspension or revocation of a license. The department may deny, suspend or revoke a PMIC license for any of the following reasons: reasons set forth in Iowa Code section 135H.8.

- ~~a. The applicant or licensee failed to comply with the rules in this chapter;~~
- ~~b. A resident is a victim of cruelty or neglect because of the acts or omissions of the licensee;~~
- ~~c. The licensee permitted, aided or abetted in the commission of an illegal act in the institution; or~~
- ~~d. The applicant or licensee attempted to obtain or retain a license by fraudulent means, misrepresentation, or by submitting false information.~~

The department will issue notice of denial, suspension or revocation by certified mail or by personal service.

41.3(2) No change.

This rule is intended to implement Iowa Code sections 135H.8 and 135H.9.

ITEM 4. Amend rule 481—41.4(135H), introductory paragraph, as follows:

481—41.4(135H) Licenses for distinct parts. ~~Separate licenses may be issued for clearly identifiable parts of a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1. A distinct part must contain contiguous rooms in a separate wing or building or be on a separate floor of the facility. Distinct parts shall provide care and services of separate categories. 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.~~ 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:

ITEM 5. Amend rule 481—41.6(135H) as follows:

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; ~~and~~
- ~~d. Within 30 days when a change in the category of license is sought.~~

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; ~~and~~
- ~~c. Submit written authorization to the department permitting the department to release information of whatever kind from department files concerning the licensee's PMIC to the named prospective purchaser, transferee, assignee or lessee.~~

ITEM 6. Amend rule 481—41.9(135H) as follows:

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 by the team described in subrules 41.13(2) and 41.13(3). Certification must be made at the time of admission by an independent team for Medicaid recipients. For emergency admissions, the certification must be made by the team described in 41.13(135H) within 14 days after admission. If an individual applies for Medicaid while in a PMIC, certification of need must be made by the team described in 41.13(135H) before a Medicaid agency authorizes payment in accordance with 42 CFR Sections 441.152 and 441.153.~~

ITEM 7. Amend paragraph **41.16(2)“b”** as follows:

b. Names and identities of all complainants; and

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to physician assistants

The Inspections and Appeals Department (Department) hereby amend Chapter 57, “Residential Care Facilities,” Chapter 65, “Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI),” and Chapter 71, “Subacute Mental Health Care Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part 2022 Iowa Acts, House File 803.

Purpose and Summary

The amendments update rules in accordance with changes included in 2022 Iowa Acts, House File 803. This legislation required agencies that adopt rules pursuant to Iowa Code chapter 17A providing a power, privilege, right, or duty to a physician licensed under Chapter 148 to also provide the same power, privilege, right, or duty to a physician assistant licensed under Chapter 148C, to be consistent with the scope of practice of the physician assistant as specified therein.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as ARC 6834C. No public comment was received and no changes have been made from the noticed filing.

Adoption of Rule Making

This rule making was adopted by the Department on March 15, 2023.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa

Code section 17A.8(6).

Effective Date

This rule making will become effective on **May 10, 2023**.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **57.6(2)“a”** as follows:

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.

ITEM 2. Amend rule **481—65.1(135C)**, definition of “Qualified mental health professional (QMHP),” as follows:

“*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 ~~variance~~ waiver procedures.

ITEM 3. Amend subparagraph **71.8(3)“a”(3)** as follows:

(3) Requires consultation with the attending physician, ~~or~~ 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;

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to violations by a health care facility

The Inspections and Appeals Department (Department) hereby amend Chapter 56, “Fining and Citations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2172.

Purpose and Summary

The amendments update rules in accordance with changes included in 2022 Iowa Acts, House File 2172. The legislation updated citations to administrative rules subject to exception from provisions related to the self-identification and correction of deficiencies by health care facilities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 25, 2023, as ARC 6835C. No public comment was received and no changes have been made from the noticed filing.

Adoption of Rule Making

This rule making was adopted by the Department on March 15, 2023.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on **May 10, 2023**.

The following rule-making action is adopted:

Amend subrule 56.3(4) as follows:

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 for ~~those penalties arising pursuant to paragraphs “a” to “f”;~~ as identified in Iowa Code section 135C.36(5).

~~a. Abuse.~~

- ~~(1) Rule 481—57.39(135C);~~
- ~~(2) Rule 481—58.43(135C);~~
- ~~(3) 481—subrules 62.23(23) to 62.23(25);~~
- ~~(4) Rule 481—63.37(135C);~~
- ~~(5) Rule 481—64.33(235B);~~
- ~~(6) Rule 481—65.15(135C);~~
- ~~(7) 481—subrules 65.25(3) to 65.25(5); and~~
- ~~(8) 42 CFR Section 483.420(d).~~

~~b. Personnel histories.~~

- ~~(1) Iowa Code section 135C.33;~~
- ~~(2) 481—subrule 57.12(3);~~
- ~~(3) 481—subrule 58.11(3);~~
- ~~(4) 481—subrule 62.9(5);~~
- ~~(5) 481—subrule 63.11(3);~~
- ~~(6) Rule 481—64.34(135C); and~~
- ~~(7) 481—subrule 65.9(5).~~

~~c. Failure to implement physician’s orders as required.~~

- ~~(1) 481—paragraph 57.12(2)“d”;~~
- ~~(2) 481—paragraph 58.19(2)“h”;~~
- ~~(3) 481—paragraph 62.15(1)“a”;~~
- ~~(4) 481—paragraph 63.11(2)“d”;~~ and
- ~~(5) 42 CFR Section 483.460(e)(4).~~

~~d. Failure to notify the physician of any accident, injury, or adverse change in a resident’s condition.~~

- ~~(1) 481—subrule 57.15(5);~~
- ~~(2) 481—subrule 58.14(5); and~~
- ~~(3) 481—paragraph 62.19(2)“e.”~~

~~e. Failure to administer all medications as ordered by the resident’s physician.~~

- ~~(1) 481—paragraph 57.12(2)“d”;~~
- ~~(2) 481—paragraph 58.19(2)“a”;~~
- ~~(3) 481—paragraph 63.11(2)“d”;~~
- ~~(4) 481—subrule 64.4(9); and~~
- ~~(5) 42 CFR Section 483.460(e)(4).~~

~~f. Failure to meet the fire safety rules and regulations promulgated by the state fire marshal.~~

- ~~(1) 481—paragraph 58.28(1)“a”;~~
- ~~(2) 481—subrule 62.19(7);~~
- ~~(3) 481—paragraph 63.23(1)“a”;~~ and
- ~~(4) 42 CFR Section 483.470(j).~~

~~g-~~ 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 ~~481—~~ ~~paragraphs 56.3(4)“a” to “f,”~~ 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 ~~E-mail~~ 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) ~~Date~~ The date the facility determined correction was completed; and
- (6) All documentation that substantiates the above information.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to hospice license standards

The Inspections and Appeals Department (Department) hereby amends Chapter 53, “Hospice License Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135J.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.7(2), 135J.7, and 2022 Iowa Acts, House File 803.

Purpose and Summary

The Department completed a comprehensive review of Chapter 53 in accordance with the requirement in Iowa Code section 17A.7(2), and the amendments update the chapter to align with current practices, terminology, and federal requirements. The proposed amendments also add “physician assistant” to the attending physician qualifications in accordance with 2022 Iowa Acts, House File 803.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as ARC 6878C. **No public comment was received and no changes have been made from the noticed filing.**

Adoption of Rule Making

This rule making was adopted by the Department on **March 15, 2023**.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The

Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on **May 10, 2023**.

The following rule-making actions are adopted:

ITEM 1. Amend rule **481—53.1(135J)**, definitions of “Bereavement service” and “Home care provider,” as follows:

“Bereavement service” is ~~support offered during the bereavement period to the family and friends of someone who has died~~ 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.

“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, ~~home health~~ hospice aides, homemakers, nurses, occupational therapists or physical therapists.

ITEM 2. Amend subrule 53.2(3) as follows:

53.2(3) Each hospice seeking licensure is surveyed before the initial license is issued and ~~biennially before a license is renewed~~ at least every 36 months thereafter.

ITEM 3. Amend subrule 53.2(5) as follows:

53.2(5) Hospices certified as Medicare providers by the department or accredited by ~~the Joint Commission on the Accreditation of Health Organizations~~ an organization approved by the Centers for Medicare and Medicaid Services for federal certification will be licensed without inspection.

ITEM 4. Rescind paragraph **53.4(1)“e.”**

ITEM 5. Reletter paragraphs **53.4(1)“f”** to **“j”** as **53.4(1)“e”** to **“i.”**

ITEM 6. Amend relettered paragraphs **53.4(1)“e”** and **“f”** as follows:

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;

ITEM 7. Amend subrules 53.5(1) and 53.5(2) as follows:

53.5(1) ~~At least quarterly, the~~ 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 ~~and families 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) ~~At least quarterly, all~~ 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.

ITEM 8. Amend rule 481—53.6(135J) as follows:

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 ~~to practice medicine pursuant to Iowa Code chapter 148, 150 or 150A or 148C;~~

2. to 6. No change.

This rule is intended to implement Iowa Code section 135J.3(4).

ITEM 9. Amend rule 481—53.7(135J) as follows:

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, ~~150 or 150A~~. The medical director shall:

1. to 6. No change.
7. Participate in resolving conflicts regarding care to be provided; and
- ~~8. Name a qualified physician to be available in the medical director's absence; and~~
- ~~9.~~ 8. Participate in the development and review of patient ~~and family~~ care policies, procedures and protocols.

This rule is intended to implement Iowa Code section 135J.3(1).

ITEM 10. Amend rule 481—53.8(135J) as follows:

481—53.8(135J) Interdisciplinary team (IDT). The IDT shall establish a plan of care for each patient ~~and family~~ 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. ~~Attending physician~~ A doctor of medicine or osteopathy who is an employee of or under contract with the hospice;
- ~~d. Medical director;~~
- ~~e.~~ d. Patient care coordinator;
- ~~f.~~ e. Staff Registered nurse;
- ~~g.~~ f. Social worker; and may include
- ~~h. Coordinator of volunteer service; and may include~~
- ~~i.~~ g. A spiritual pastoral or other counselor and others deemed appropriate by the hospice.

53.8(2) ~~Prior to or on the day~~ 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 ~~and family~~ needs.

53.8(3) Within ~~seven~~ 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 ~~seven~~ five calendar days of admission, the interdisciplinary team shall meet to develop a comprehensive written plan of care. The plan of care shall:

- a. to f. No change.

53.8(5) The IDT shall monitor and revise the plan of care on a regular basis. The team shall meet ~~weekly~~ 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).

ITEM 11. Amend subrule 53.9(2) as follows:

53.9(2) The nursing service staff shall:

- a. to e. No change.
- f. Develop and implement nursing service objectives, policies and procedures; and
- ~~g. Develop job descriptions for all nursing personnel;~~
- ~~h. Establish staff schedules to meet patient and family needs and ensure 24-hour service;~~
- ~~i. Develop and implement orientation and training programs;~~
- ~~j. Develop and implement performance evaluation for the nursing staff;~~
- ~~k.~~ g. Assign duties to nurses and hospice aides consistent with their education and experience; and
- ~~l. Facilitate periodic meetings of the professional nursing staff to evaluate the nursing care provided by hospice personnel.~~

ITEM 12. Amend rule 481—53.11(135J) as follows:

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:

- 1- a. Coordinate all aspects of patient care to ensure continuity, including care by all service disciplines in all care settings;
- 2- 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;
- 3- c. Facilitate communication between caregivers, patient and family;
- 4- d. Maintain a roster of patients;
- 5- e. Maintain a schedule for IDT review of care plans; ~~and~~
- 6- 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).

ITEM 13. Amend rule 481—53.12(135J) as follows:

481—53.12(135J) Social services. ~~Social services shall be planned and provided or supervised by a person who has at least a bachelor's degree in social work from a school approved by the council on social work education.~~ 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:

- 1- a. Consider the emotions and social support system of the patient ~~and family~~;
- 2- ~~Assess the ability of the family and the patient to function socially and to deal with their emotions;~~
- 3- b. Identify patient ~~and family~~ social service needs;
- 4- c. Participate on the IDT to develop and amend the plan of care;
- 5- d. Provide services in accordance with the plans of care developed by the IDT;
- 6- e. Document services provided and observations made regarding patient and family response and status; and
- 7- 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).

ITEM 14. Amend rule 481—53.14(135J) as follows:

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.

~~53.14(1) Each volunteer shall have at least 14 hours of education provided by the hospice before being assigned to a patient and family. The following topics shall be included in the educational program:~~

- ~~a. Hospice concept and philosophy;~~
- ~~b. Symptom control;~~
- ~~c. Infection control;~~
- ~~d. Home care skills;~~
- ~~e. Safety measures and transfer techniques;~~
- ~~f. Stress management;~~
- ~~g. Communication needs;~~
- ~~h. Psychosocial needs;~~
- ~~i. Spiritual needs;~~
- ~~j. Death, dying and grief; and~~
- ~~k. Funerals and alternative rituals.~~

~~53.14(2) The hospice shall offer at least two hours of in-service training each quarter. This rule is intended to implement Iowa Code section 135J.3(2).~~

ITEM 15. Amend rule 481—53.16(135J), introductory paragraph, as follows:

481—53.16(135J) Optional services. Optional services are services provided by the hospice which are not required. Examples are ~~home health~~ hospice aide, therapy and respite. The following apply to the provision of all optional services provided by a hospice:

ITEM 16. Amend rule 481—53.20(135J), introductory paragraph, as follows:

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 ~~three~~ six years following termination of services.