

## State Board of Health

REGULARLY SCHEDULED MEETING: 05/10/2023

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 – 03/08/2023
- 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.** 2022 Iowa's Local Public Health System Survey Report - Marisa Roseberry
- 11:20 A.M.** Administrative Rules – Department of Public Health [641] – Susan Dixon  
Adopted and Filed
  - a. 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,”

**11:25 A.M.** Department of Inspections and Appeals [482] - Ashleigh Hackel

Adopted and Filed

- a. *ARC 6908C* - a rule making related to nursing facilities
- b. *ARC 6909C* - a rule making related to boarding homes
- c. *ARC 6910C* - a rule making related to minimum physical standards for residential care facilities
- d. *ARC 6911C* - a rule making related to health care facilities administration

**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.

All meetings held by the Iowa Department of Public Health are accessible to everyone. If you are a person with a disability who requires reasonable accommodation in order to participate in this meeting, please contact Iesha Smith a minimum of five business days in advance at 515-281-7726 or at [iesha.smith@idph.iowa.gov](mailto:iesha.smith@idph.iowa.gov). If you have a hearing and/or speech impairment, please call Relay Iowa at 7-1-1 or 1-800-735-2942 (TTY or ASCII). For more information on Relay Iowa Services please view their website at: <http://www.relayiowa.com/services/>

**Iowa State Board of Health**  
**03/08/2023**  
**Draft - MEETING MINUTES**

Members Present: Donald Macfarlane, MD, PhD, Chair  
George Kovach, MD  
Leone Junck  
Samantha Rozeboom, MD  
Nick Ryan, JD  
Chelcee Schleuger, RN, BSN

Members Absent: Andrew Allen, Vice-Chair  
Ann McBride, RN  
Sandra McGrath, RN  
Kierstyn Borg Mickelson

Staff Present: Kelly Garcia, IHHS Director  
Robert Kruse, MPH, PhD, State Medical Director  
Iesha Smith, Recording Officer

Staff Absent: Ken Sharp, Public Health Operations Deputy  
Sarah Resisetter, J.D., Director of Compliance

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**Call to Order & Roll Call**

Donald Macfarlane called the video meeting to order at 10:02 AM. Roll call was taken to determine if a quorum was present.

**Approval of Minutes from 01/11/2023**

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

**Director's Report - Kelly Garcia, IHHS Director**

The Senate debated the Governor's Alignment bill on the merging of new state agencies and transitioning some legacy IDPH programs into DIA. Several state agencies have work activities centered on community collaboration and engagement, recruitment and training of volunteers and advocates, and larger health and human systems. These state agencies will transition into IHHS on July 1, 2023: The Department of Human Rights, Volunteer Iowa, Child Advocacy Board, Department of Aging, and Early Childhood Iowa.

The President and federal administration has separated the Medicaid continuous eligibility and Public Health Emergency unwind. IHHS has been preparing to work with federal partners on a redetermination process for Medicaid enrollment. Currently, the state has around 900,000 individuals who are up for redetermination. The process will be lengthy and will happen simultaneously with the onboarding of Molina Healthcare of Iowa. Referrals to the federal marketplace will be communicated to clients as the redetermination process occurs. Communication and collaboration with Iowa healthcare providers, clinics, clients, local public health officials, and other groups have been engaged to understand where the gaps lie within the state.

Board member Donald Macfarlane inquired about the number of individuals who may not have Medicaid coverage or may sit as they are awaiting next care steps. Director Garcia reported that the caseloads have fluctuated each year since the pandemic and can project about 120,000 to 140,000 Medicaid members to be disenrolled. Director Garcia did comment that individuals can look up their Medicaid coverage when they receive services. Additional work on IT system improvements are being developed to improve the time to view eligibility status for Medicaid clients.

#### **State Medical Director Report- Robert Kruse, State Medical Director**

Dr. Kruse shared that the Public Health Division was awarded a grant from HRSA to host Community Health Worker Training in Spring of 2023. Des Moines University and DMACC have agreed to help implement training for three various trainings for those who want to be a CHW, those already employed as a CHW, and upskilling training for current CHWs. IHHS staff working on the CHW training series will also be presenting this work at the IPHA Conference. The IPHA Conference is March 28th and 29th with multiple staff members presenting at booths or trainings during the conference. Director Garcia and Dr. Kruse will also hold a keynote speaker session.

In June, there will be a three and a half day Train the Trainer course that looks at evidence based practices to improve public health population health and health equity. The Prevention Research Center in St. Louis and the National Association of Chronic Disease Disorder will be working with IHHS to implement the training. Some of the skills provided include assessing and engaging communities, quantifying issues using descriptive epidemiology and surveillance methods, and summarizing scientific literature and evaluating the program and policy.

Forensic pathologist Michelle Catellier at the State Medical Examiner Office will be retiring and current recruiting is occurring to help fill the vacancy. IHHS was selected as a Preparedness Field Assignee Host Site from the CDC. The assignee will aid field services for public health emergencies and natural disasters for the state and at the tribal and local level. Currently, IHHS is awaiting for the assignee and looking forwards to the improvements to come post pandemic.

Board member Donald Macfarlane has inquired about engagement in the current legislative session and current bills. Director Garcia commented that the agency's legislative liaisons have been diligent about incorporating appropriate feedback from IHHS leadership to understand bills

that arise. Director Garcia notes that no particular bills have been identified as concerning to provide comments to the board.

### **Youth and Young Adult Substance Use Trends - Pat McGovern**

Pat McGovern with the Bureau of Substance Use presented data from the Iowa Youth Survey on usage of substances in youth between the ages of 6th and 11th grade. From the data provided, alcohol is the primary substance of choice for youth with e-cigarettes following as the second substance of choice. Additional information about substance use disorder treatment and substance involved deaths was included in the presentation.

Board member Leone Junck inquired about how the program obtains county level data. Pat informed that data is available on the Iowa Youth Survey webpage. Board member George Kovach also inquired about a breakdown of substances considered in deaths of individuals. Pat commented on sending an email to the board member after the meeting. Board member Donald Macfarlane also asked about access to fentanyl on accident versus on purpose. Pat stated that it can be challenging to tease out data on individuals who actively engage in fentanyl or come by fentanyl and reporting it. Board member George Kovach inquired on whether the program collects data on types of substances reported in death reports. Monica reported that the program is working with the State Medical Examiner Office to better understand that data and it depends on the types of tests the office completes to view those substances. Dr. Kruse further elaborated about the various types of tests used to test for substances.

### **Fentanyl Awareness Campaign - Monica Wilke-Brown**

Monica Wilke-Brown with the Bureau of Substance Use also shared a presentation of opioid awareness campaigns created as part of a federal grant received. Monica reported that illicit fentanyl is becoming more popular in this opioid crisis, often disguising as fake prescription pills. Other medications like stimulants also may be contaminated with fentanyl and can be harmful given the individual using them may not know there is fentanyl residue. Several campaign advertisements were shown to meeting attendees, including links for later viewing.

Board member George Kovach commented on the resistance to Naloxone and dosing. He recommended having a better understanding about the dosing of Naloxone and additional follow up care. Monica reported that there are higher dosage levels of Naloxone that are currently being considered and access to it if it becomes commercialized. The program does have additional educational material about Naloxone dosing and emergency care in an overdose situation. Board member Donald Macfarlane questioned the manufacturing and distributors of fentanyl in the state of Iowa. Monica reported that the program received information about most fentanyl being manufactured outside the U.S. and mailed in small doses via mail. The transported fentanyl enters communities and is distributed further.

### **Administrative Rules - Iowa Department of Public Health [641] - Adopted and Filed 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 George Kovach motioned to approve with Nick Ryan seconded. All board members present voted unanimously to approve the rules.

### **Administrative Rules - Iowa Department of Inspections & Appeals [482] - Notice of Intended Action**

ARC 6812C - a rule making for intermediate care facilities for the intellectually disabled

ARC 6813C - a rule making related to psychiatric medical institutions for children (PMIC)

ARC 6834C - a rule making related to physician assistants.

ARC 6835C - a rule making related to violations by a healthcare facility

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

ARC 6908C - a rule making related to nursing facilities

ARC 6909C - a rule making related to boarding homes

ARC 6910C - a rule making related to minimum physical standards for residential care facilities

ARC 6911C - a rule making related to health care facilities administration

### **Administrative Rules - Iowa Department of Inspections & Appeals [492] - Adopted and Filed**

ARC 6812C - a rule making for intermediate care facilities for the intellectually disabled. Board member George Kovach motioned to approve with Nick Ryan seconded. All board members present voted unanimously to approve the rules.

ARC 6813C - a rule making related to psychiatric medical institutions for children (PMIC). Board member Leone Junck motioned to approve with Samantha Rozeboom seconded. All board members present voted unanimously to approve the rules.

ARC 6834C - a rule making related to physician assistants. Board member Chelcee Schleuger motioned to approve with George Kovach seconded. All board members present voted unanimously to approve the rules.

ARC 6835C - a rule making related to violations by a healthcare facility. Board member Samantha Rozeboom motioned to approve with Chelcee Schleuger seconded. All board members present voted unanimously to approve the rules.

ARC 6878C - a rule making related to hospice license standards. Board member Donald Macfarlane commented on the time it takes for a nurse to complete intake paperwork for a patient and it reduces the quality of care for the patient and family. 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**

Samantha Rozeboom presented on the committee's work. Much of the work completed was focused on licensure status for several organizations in the state. The committee meeting was short and provided the following updates on licensure approvals:

- One - One year license
- One - Complaint investigation
- One - 270 day license
- Two - 270 day licenses

### **Adjournment**

On a motion by Leone Junck seconded by George Kovach, all State Board of Health members present voted unanimously to adjourn at approximately 11:17 AM.

The State Board of Health board members convened at 11:30 AM to begin the Preventive Health & Health Services Block Grant Advisory Committee.

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STATE OF IOWA DEPARTMENT OF

Health <sup>AND</sup> Human

SERVICES

# 2022 Local Public Health Systems Survey Report

May 2023



# Agenda

- Survey overview
- Report findings
- Next steps

# Systems Survey Purpose

- Describe the local governmental public health system
- Examine public health practice across all 99 counties
  - Understand the role variability plays in implementing public health activities and services
  - Determine similarities and differences within public health structures
  - Identify opportunities to enhance and advance Iowa's public health system

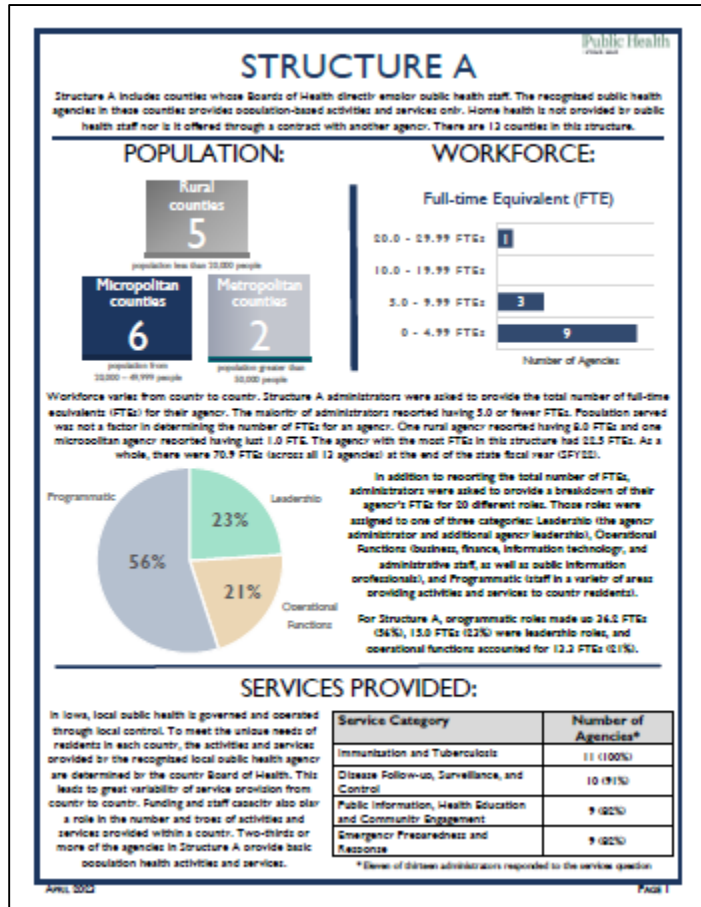
# Systems Survey Overview

- Conducted in August 2022 as a LPHS contract performance measure
- Questionnaire focused on two main areas
  - Local boards of health
    - Board membership
    - Board member background
    - Board service
  - Local public health agencies
    - Infrastructure (workforce, revenue and expenses, and foundational capabilities)
    - Service delivery (population-based essential services, client-based services)
    - Cross-jurisdictional sharing
- Respondents (100% response rate)
  - Local public health administrators
  - Iowa HHS program staff

# Systems Survey Overview

- Report format – New this year
  - Provides context to help develop an understanding of Iowa’s local governmental public health system through state fiscal year 22 (June 30, 2022)
  - Brings to light opportunities for state, local, and other partners to work together to enhance and advance Iowa’s public health and HHS systems
  - Includes data tables with information from previous years (where applicable)
  - Displays agency data broken down by public health structure to show how like counties are both similar and different

# Data By Structure



Screenshot taken from Appendix B

- Three main ways in which counties in the system can be categorized
  - How the board of health assures the provision of services (employs staff or contracts for services)
  - If the recognized public health agency provides home health services
  - Level of home health services provided
- Agency data broken down by how public health is structured
  - Population
  - Workforce
  - Services provided
  - Foundational capabilities
  - Revenue and expenses
  - Cross-jurisdictional sharing

# Results at a Glance: Board of Health

- In SFY22
  - 546 Iowans served on 99 boards of health
  - 58 new board of health members appointed
- Member background varies; 47% of members had a medical background

53%

Board of Health  
members with less than  
5 years of service

38%

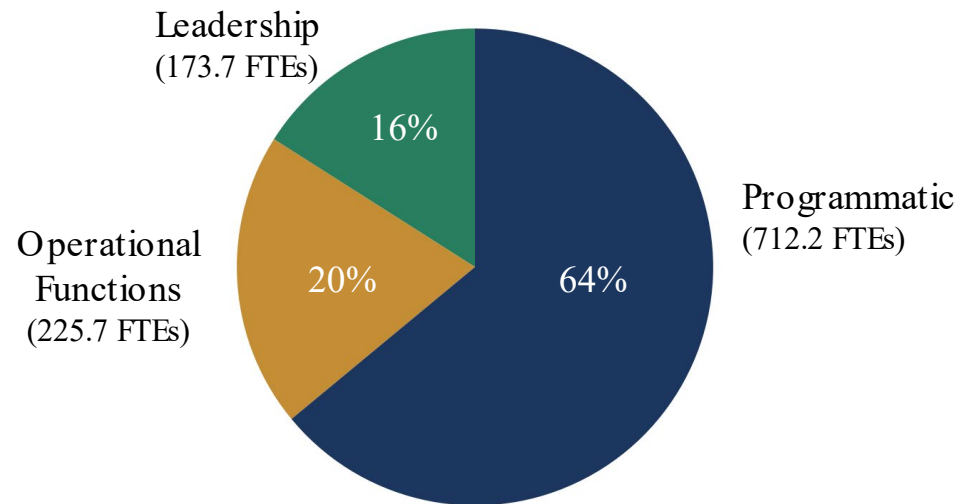
Board of Health  
members with 5-15  
years of service

9%

Board of Health  
members with more  
than 15 years of service

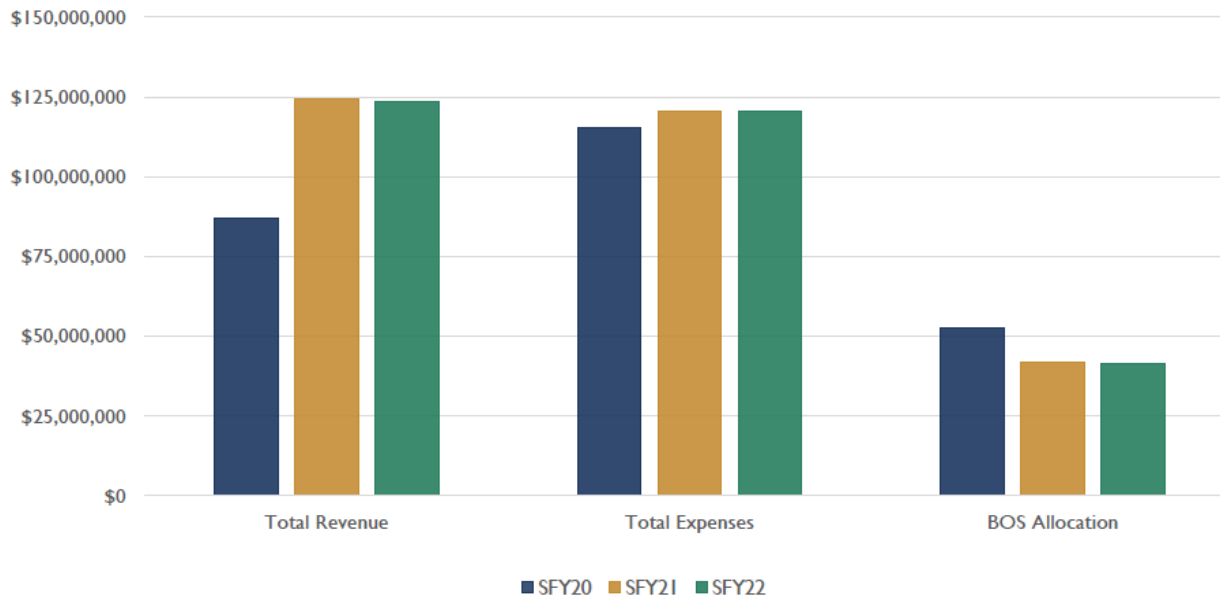
# Results at a Glance: Infrastructure Workforce

- Average FTEs - decreased for rural and micropolitan agencies; increased for metropolitan agencies
- LPH administrator experience - 56% in their role less than five years
- FTEs - local public health staff



# Results at a Glance: Infrastructure Revenue and Expenses

Annual Finance Comparisons



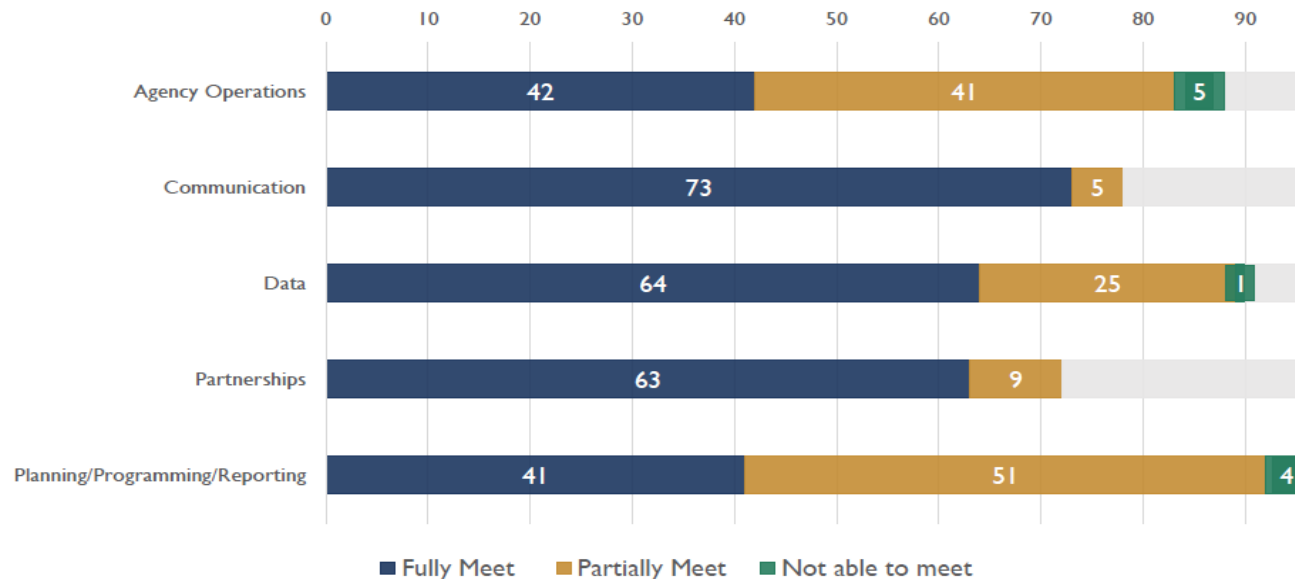
## Total Revenue SFY22

\$123,651,332  
\$120,310,785

## Total Expenses SFY22



# Results at a Glance: Infrastructure Foundational Capabilities



- 73 agencies self-reported being able to meet half or more of the capabilities related to communication
- Agencies self-reported being less able to meet the capabilities related to agency operations and planning, programming, and reporting

# Results at a Glance: Service Delivery

## Population Health

- Funding and staff capacity play a role in the number and types of activities and services provided within a county
- Four main population-based activities were provided by at least 2/3 of the recognized local public health agencies



Disease follow-up,  
surveillance and control  
(93%)



Emergency  
preparedness and  
response (88%)



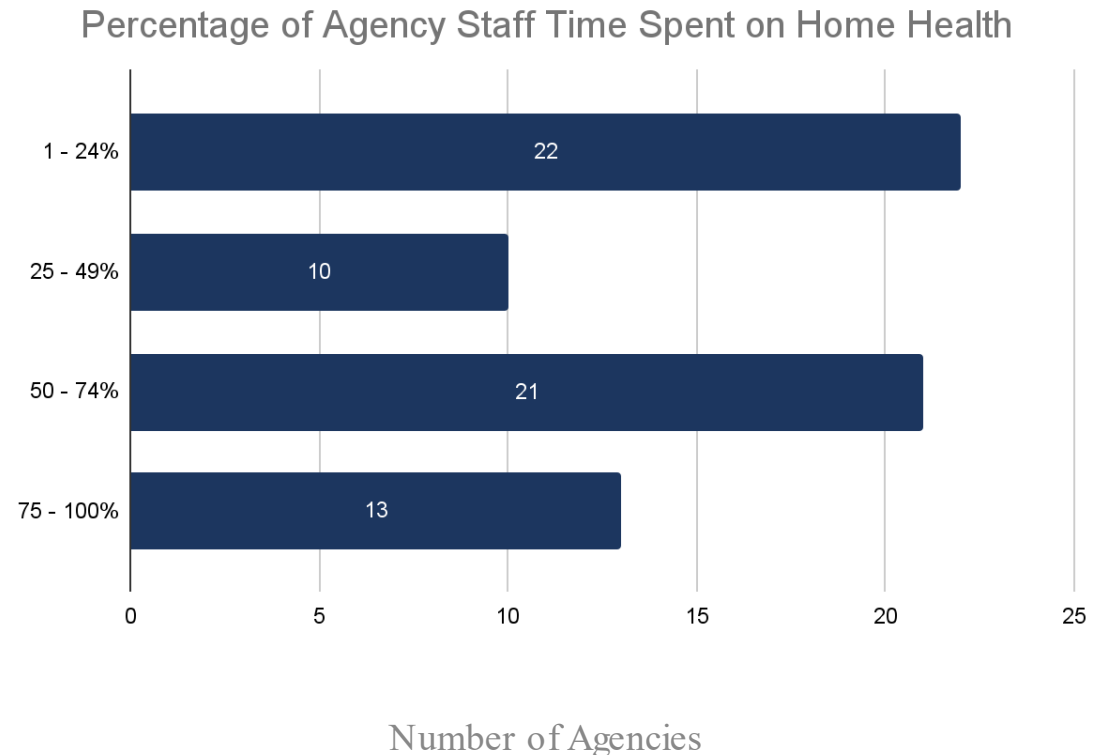
Immunization and  
tuberculosis (93%)



Public information, health  
education and community  
engagement (70%)

# Results at a Glance: Service Delivery Home Health

- Offered by 82 counties
- Provided by 66 recognized local public health agencies (includes three counties that share services with a neighboring county)

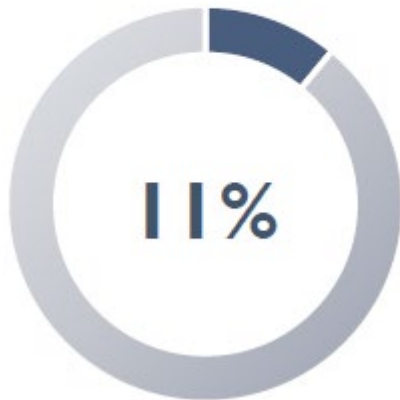


# Results at a Glance: Cross-Jurisdictional Sharing

## Share Services

## Share Staff

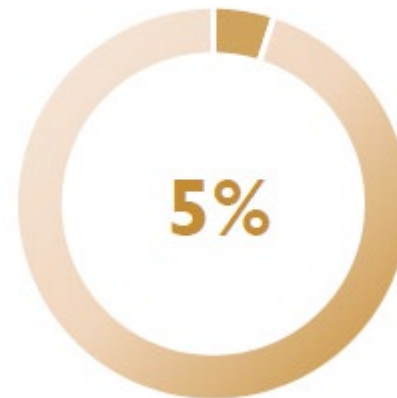
Currently shares the  
delivery of services



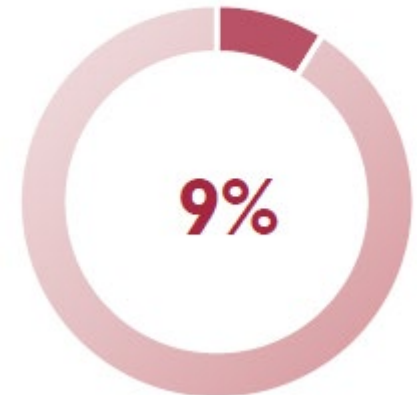
Would consider sharing  
the delivery of services



Currently shares staff  
with another agency



Would consider sharing  
staff with another agency



# Conclusion

- Results reinforce the saying, “when you’ve seen one recognized local public health agency in Iowa, you’ve seen one agency”
- Local control allows for great variability from county to county and agency to agency - no two counties are alike
- No predictable correlation between the population of a county and the different variables studied through the survey or between variables themselves

# Next Steps

Use data to:

- Inform public health systems development work
  - Develop a vision for our collaborative system
  - Increase capacity to implement foundational capabilities at both levels
  - Identify opportunities to better provide high quality, equitable services for individuals, families, and communities
- Inform systems development work at Iowa HHS

# Next Steps- Assessment

- The health and human services system functions in silos - cumbersome and inefficient for those we serve and for our community partners
- Environmental scan of the whole system - includes partners that provide health and human services programs and activities, inclusive of public health, behavioral health, community health, aging, and other functional components.
- Objectives include:
  - Developing recommendations for future state to better align HHS service delivery for streamlined systems, with improved outcomes, while preserving and ensuring a strong local presence
  - Identifying opportunities to better provide high quality, equitable services for individuals, families, and communities

# Questions?



**PUBLIC HEALTH DEPARTMENT [641]**

**Adopted and Filed**

**Rule making related to licensing regulation, fees, veterans and military spouses**

The Public Health Department hereby amends 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,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapters 147A and 272C and 2022 Iowa Acts, Senate File 2383.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

*Purpose and Summary*

This rule making implements the licensure-related provisions of 2022 Iowa Acts, Senate File 2383, by revising the requirements for licensure by verification and updating the requirements and parameters of licensure for veterans and their spouses.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 8, 2023, as **ARC 6942C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Health on May 10, 2023.

*Fiscal Impact*

This rule making will have limited fiscal impact. The provisions of the rule making will waive the initial application and renewal fees for veterans who were honorably or generally discharged within the previous five years. However, the overall number of applications that meet the criteria is low.

#### *Jobs Impact*

After analysis and review of this rule making, there may be a positive impact on jobs since it would streamline and remove some of the requirements related to licensure by verification. Additionally, it would clearly provide an alternative pathway to licensure of spouses of veterans when moving to Iowa.

#### *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 July 19, 2023.

The following rule-making action is adopted:

ITEM 1. Amend subrule 131.3(6) as follows:

**131.3(6)** Fees may be waived in accordance with provisions in Iowa Code chapter 272C for individuals demonstrating ~~income~~ the following:

*a.* Income that does not exceed 200 percent of the federal poverty level;

*b.* Initial licensing fees and one renewal fee for an applicant who has been honorably or generally discharged from federal active duty or national guard duty, as those terms are defined in Iowa Code section 29A.1, who would otherwise be charged within five years of the discharge.

ITEM 2. Amend subrules 196.3(3) to 196.3(6) as follows:

**196.3(3)** Upon receipt of a fully completed licensure application, the licensing authority shall promptly determine if the ~~professional or occupational licensing requirements~~ scope of practice of the jurisdiction where the veteran or spouse is licensed ~~are~~ is substantially equivalent to the ~~licensing requirements~~ scope of practice in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction. ~~As relevant to the license at issue, the licensing authority may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, experience, and examinations required for licensure.~~

**196.3(4)** The licensing authority shall promptly grant a license to the veteran or spouse if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements are~~ scope of practice is substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**196.3(5)** If the licensing authority determines that the ~~licensure requirements~~ scope of practice in the jurisdiction in which the veteran or spouse is licensed ~~are~~ is not substantially

equivalent to ~~those required~~ the scope of practice in Iowa, the licensing authority shall promptly inform the applicant of the additional ~~experience~~, education ; or ~~examinations~~ training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a ~~provisional~~ temporary license is inconsistent with the licensing authority's enabling statute, the following shall apply:

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

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

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

*d.* If a ~~provisional~~ temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience~~ or education or training has been

successfully completed or the ~~provisional~~ temporary license expires, whichever occurs first. The licensing authority may extend a ~~provisional~~ temporary license on a case-by-case basis for good cause.

**196.3(6)** A veteran or spouse who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### Adopted and Filed

#### Rule making related to nursing facilities

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

#### *Legal Authority for Rule Making*

This rule making is submitted 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 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 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.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6908C**. The Department received two sets of public comments. The first, submitted by the Iowa Health Care Association (“IHCA”), requested retention of language removed from rule 58.12(1)“g” (Item 12) stating: “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.” However, that same language is set forth in Iowa Code 135C.24(2). Accordingly, the Department has made no additional change to that item. IHCA also requested the Department retain subrule 58.47(2)“c” (Item 44), which provides an exception to resident visitation rights where “[t]he 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).” This rule making differs from the Noticed rule making to retain that language.

The Department also received public comments from the Iowa Dietitians in Health Care Communities (“IDHCC”). IDHCC specifically supported the Department’s proposed changes to Rule 58.24(2), requested a definition of “qualified health care practitioner” referenced in 58.24(2)“d”(3) and 58.24(3), and that additional explanation be provided regarding the requirement for “suitable, nourishing alternative meals and snacks.” The Department has revised 58.24(3)“c”(2) (Item 28) to provide additional explanation for the “suitable, nourishing alternative meals and snacks” by reference the federal requirement and interpretive guidelines at 42 CFR 483.60(f). The Department has made no change regarding the provision of a definition of “qualified health care practitioner” as the Department’s intent is provide flexibility based on the scope of practice permitted by the governing body of the particular type of practitioner.

The Department has also made revisions to Rules 58.3(1)“c” (Item 3), 58.3(2) “c” (Item 4), 58.5(7) “b” (Item 6), and 58.40(11) (Item 39) to require 60 days, rather than 30 days, for submission of the initial application, change of ownership information, and voluntary closure. These changes are consistent with current federal requirements.

#### *Adoption of Rule Making*

The Notice of Intended Action for this rule making was reviewed by the State Board of Health at its meeting on March 8, 2023. This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on \*\*, 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).

The following rule-making actions are adopted:

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 paragraph **58.3(1)“c”** as follows:

c. Make application at least ~~30~~ 60 days prior to the change of ownership of the facility on forms provided by the department;

ITEM 4. Amend paragraph **58.3(2)“c”** as follows:

c. Make application at least ~~30~~ 60 days prior to the change of ownership of the facility on forms provided by the department;

ITEM 5. 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 6. 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~~ 60 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 7. 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 8. 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 9. 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](http://www.cdc.gov/ncidod/dhqp/index.html) [www.cdc.gov](http://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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. Amend subparagraph **58.22(1)“d”(1)** as follows:

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

ITEM 27. 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 28. 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 dietitian’s scope of practice, and following the planned menu. (II, III)

*e.* The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or

nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed ~~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 and 42 CFR 483.60(f) and federal interpretive guidelines. (II, III)

(3) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)

*d. 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 29. 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.*~~ *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.*~~ *d.* There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

ITEM 30. Rescind and reserve rule ~~481—58.27(135C)~~.

ITEM 31. 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 32. 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 33. 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 34. 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)

<del>Bath basins</del>	<del>Rectal tubes</del>
<del>Soap containers</del>	<del>Catheters and catheterization equipment</del>
<del>Denture cups</del>	<del>Douche nozzle</del>
<del>Emesis basins</del>	<del>Oxygen therapy equipment</del>
<del>Mouthwash cups</del>	<del>Naso-gastric feeding equipment</del>
<del>Bedpans</del>	<del>Wheelchairs</del>
<del>Urinals</del>	<del>Moisture-proof draw sheets</del>
<del>Enema equipment</del>	<del>Moisture-proof pillow covers</del>
<del>Commodore</del>	<del>Moisture-proof mattress covers</del>
<del>Quart graduate measure</del>	<del>Foot tubs</del>
<del>Thermometer for measurement of bath water temperature</del>	<del>Metal pitcher</del>
<del>Oral thermometer</del>	<del>Disinfectant solutions</del>
<del>Rectal thermometer</del>	<del>Alcohol</del>
<del>Basins for sterilizing thermometers</del>	<del>Lubricating jelly</del>
<del>Basins for irrigations</del>	<del>Skin lotion</del>
<del>Asepto-syringes</del>	<del>Applicators</del>
<del>Sphygmomanometer</del>	<del>Tongue blades</del>
<del>Paper towels</del>	<del>Toilet paper</del>
<del>Paper handkerchiefs</del>	<del>Rubber gloves or disposable gloves</del>
<del>Insulin syringes</del>	<del>Scales for nonambulatory patients</del>
<del>2-cc hypodermic syringes</del>	<del>Tourniquet</del>
	<del>Suction machine</del>

Weight scales	Medicine dispensing containers
Hypodermic needles	Bandages
Stethoscope	Adhesive
Ice caps	Portable linen hampers
Hot water bottles	Denture identification equipment
	Tracheotomy care equipment

ITEM 35. 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 36. 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 37. 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 38. 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 39. Amend subrule 58.40(11) as follows:

**58.40(11)** *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of ~~30~~ 60 days must be allowed for an orderly transfer of residents to other facilities.

ITEM 40. Rescind paragraph **58.43(7)"j."**

ITEM 41. Reletter paragraphs **58.43(7)"k"** to **"m"** as **58.43(7)"j"** to **"l."**

ITEM 42. 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 43. 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 44. 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. A particular visitor may be restricted by the facility if the visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgement must be made by the administrator and the reasons shall be documented and kept on file). (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 45. Rescind subrule **58.49(2)**.

ITEM 46. Renumber subrules **58.49(3)** to **58.49(5)** as **58.49(2)** to **58.49(4)**.

ITEM 47. 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 48. 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 (Part D) pursuant to Section 1860D of the Social Security Act, and the facility shall utilize a pharmacy(ies) that recognizes the Part D plans chosen by that facility's Medicare beneficiaries. Each resident shall have free choice of pharmacy as to medications purchased by the resident outside of Part D plan coverage, although the facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility.

A facility shall not require the repackaging of medications dispensed by the Veterans Administration or an institution operated by the Veterans Administration for the purpose of making the

drug distribution system compatible with the system used by the facility. (II)

ITEM 49. Rescind and reserve rule **481—58.53(135C)**.

ITEM 50. 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 51. 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 52. Rescind the implementation sentence in rule **481—58.54(73GA,ch 1016)**.

ITEM 53. 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 CFR 483.12 483.15, admission, transfer and discharge rights.

ITEM 54. 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]

### Adopted and Filed

#### Rule making related to boarding homes

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

#### *Legal Authority for Rule Making*

This rule making is submitted under the authority provided in Iowa Code sections 10A.104 and 1350.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 1350.2.

#### *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 rule making clarifies current practices, updates citations, and removes unnecessary text.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6909C**. No public comments were received and no changes were made from the Notice.

#### *Adoption of Rule Making*

The Notice of Intended Action for this rule making was reviewed by the State Board of Health at its meeting on March 8, 2023. This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on \*\*, 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).

The following rule-making actions are adopted:

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

**481—66.1(83GA,SF484 135O) 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 135O];~~ Iowa Code chapter 135O 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 135O) 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 135O) 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 two working days of receipt of the complaint. If there is an allegation of harm, the department shall initiate an investigation of the boarding home within 20 working days of receipt of the complaint.~~

~~**66.4(4) 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.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do) 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]

### Adopted and Filed

#### Rule making related to minimum physical standards for residential care facilities

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

#### *Legal Authority for Rule Making*

This rule making is submitted 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 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.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6910C**. No public comments were received. One amendment has been made from the Notice. The Department rescinded and reserved Rule 60.10(2)“b”:

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)

The requirements previously set forth in Rule 60.10(2)“a”–“b” are outdated as the State Fire Marshal’s Office reviews dietetic service area as a part of its overall plan review under current its own applicable regulations.

*Adoption of Rule Making*

The Notice of Intended Action for this rule making was reviewed by the State Board of Health at its meeting on March 8, 2023. This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on \*\*, 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).

The following rule-making action is adopted:

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

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\*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.

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**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, work counter, waste and soiled linen receptacles, and a two-compartment sink shall be provided. (III) One compartment of the double sink shall be a minimum of 10 inches deep for cleaning and sanitizing equipment. (III)

**60.8(7)** Enclosed clean linen storage, separate from the clean workroom. (III)

**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. Reserved.

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. Either conventional or chemical dishwashing equipment may be used. (III)

(1) Where conventional dishwashing equipment is used, the hot water system shall be designed to supply hot water at 110° Fahrenheit to 120° Fahrenheit. (III)

(2) A three-compartment pot and pan sink shall be provided for ware washing that provides and maintains hot water at 110° Fahrenheit to 115° Fahrenheit for washing and 170° Fahrenheit to 180° Fahrenheit for sanitizing, or a two-compartment sink shall be provided for soaking and washing utensils, with easy access to a dish machine that must be large enough for sanitizing all sizes of utensils used. (III)

(3) Machines (single-tank stationary rack, door-type machines and spray-type glass washers) using chemicals for sanitation may be used, provided that:

1. The temperature of the wash water shall not be less than 120° Fahrenheit. (III)
2. Chemicals added for sanitation purposes shall be automatically dispensed. (III)
3. The wash water shall be kept clean. (III)
4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration. (III)
5. The chemical sanitizing rinse water temperature shall be not less than 75° Fahrenheit nor less than the temperature specified by the machine's manufacturer. (III)
6. Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010. (III)

7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used. (III)

*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 and record storage and may contain medication storage.

3. A lounge shall be provided for staff. Toilet rooms with sink and toilet shall be provided for staff.

4. Closets or compartments for the safekeeping of coats and personal effects of staff.

**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]**

**Adopted and Filed**

**Rule making related to health care facilities administration**

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

*Legal Authority for Rule Making*

This rule making is submitted 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 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.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 22, 2023, as **ARC 6911C**. The Department received no public comments and no changes were made from the Notice.

*Adoption of Rule Making*

The Notice of Intended Action for this rule making was reviewed by the State Board of Health at its meeting on March 8, 2023. This rule making was reviewed and approved by the State Board of Health at its May 10, 2023, meeting. This rule making was adopted by the Department on \*\*, 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).

The following rule-making actions are adopted:

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).

**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~~ 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.do~~ 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”;