

State of Iowa

Iowa
Administrative
Code
Supplement

Biweekly
January 21, 2015



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Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Administrative Services Department[11]

- Replace Analysis
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Economic Development Authority[261]

- Replace Analysis
- Remove Reserved Chapters 12 to 19
- Insert Chapter 12 and Reserved Chapters 13 to 19
- Replace Chapter 31
- Replace Chapter 48
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[Created by 2003 Iowa Acts, House File 534, section 2]

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CHAPTER 40
OFFSET OF DEBTS OWED STATE AGENCIES

11—40.1(8A) Definitions. For the purposes of this chapter, the following definitions shall govern:

“*Claim*” means a liquidated sum due, owing, and payable to a debtor from a public agency.

“*Collection entity*” means the department of administrative services and any other public agency that maintains a separate accounting system, elects to establish a debt collection setoff procedure for collection of debts owed to the public agency, and participates in the department of administrative services’ offset program.

“*Debtor*” means any person owing a debt to a public agency.

“*Department*” means the Iowa department of administrative services.

“*Director*” means the director of the Iowa department of administrative services or the director’s designee.

“*Judicial branch*” means the same as that set forth in Iowa Code section 602.1102.

“*Liability*” or “*debt*” means a “qualifying debt” as defined in Iowa Code section 8A.504(1) “c” or any liquidated sum due, owing, and payable by a debtor to a public agency. Such liquidated sum may be accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum.

“*Liability owed to a court*” or “*debt owed to a court*” means any liquidated sum due, owing, and payable to any clerk of the Iowa district court including, but not limited to, “court debt” as defined in Iowa Code section 602.8107(1) which remains unpaid 30 or more days after the date the court debt was due.

“*Liquidated*” means that the amount of the claim or debt is definite, determined, and fixed by agreement of the parties, by operation of law, or through court or administrative proceedings.

“*Offset*” means to set off liabilities owed by persons to public agencies against claims owed to persons by public agencies.

“*Offset program*” means the department program for debt collection under the provisions of Iowa Code section 8A.504 through the daily processing and income tax refund programs.

“*Person*” or “*entity*” means an individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

“*Public agency*” or “*agency*” means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report, or a political subdivision of the state, or an office or unit of a political subdivision, or a clerk of district court. However, “public agency” or “agency” does not mean any of the following:

1. The office of the governor;
2. The general assembly, or any office or unit under its administrative authority; or
3. The judicial branch, as provided in Iowa Code section 602.1102 other than the clerk of the district court. Offset procedures uniquely applicable to debts owed to clerks of the district court are set forth in rules 11—40.10(8A) to 11—40.15(8A).

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.2(8A) Scope and purpose.

40.2(1) Purpose. The purpose of these rules is to establish a procedure by which public agencies can participate in the department’s offset program by identifying debtors who owe liabilities to those public agencies and to establish a procedure for offsetting those liabilities against claims owed to debtors by public agencies.

40.2(2) Collection. Agencies may collect debts under the provisions of Iowa Code section 8A.504 through the daily processing and income tax refund offset programs.

40.2(3) Inclusions in and exclusions from setoff. The offset system may be used to collect any debt described in Iowa Code section 8A.504 as long as the conditions of rule 11—40.3(8A) are satisfied. However, some claims against public agencies on behalf of certain debtors are made from funds exempt

from collection and are thus unavailable for offset. A consolidated listing of payment sources unavailable for offset is available from the department's state accounting enterprise.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.3(8A) Participation guidelines.

40.3(1) *Participation—cost effective.* Those public agencies qualified under rule 11—40.2(8A) to use this chapter's offset provisions should utilize these provisions when it is cost-effective to do so. Final determination regarding whether or not it will be cost-effective to offset any debt owed will be at the discretion of the director. Generally, it will not be cost-effective to offset a debt if the total anticipated collection cost will exceed the amount of the claim. The cost-effectiveness criteria that the director applies will not be the same for every agency. Circumstances differ among agencies. The following nonexclusive examples are intended to provide guidance in determining cost-effectiveness. These examples represent instances in which it might not be cost-effective to offset debts.

EXAMPLE A: A debtor has ceased operations for an extended period of time.

EXAMPLE B: A business has changed its organizational structure (e.g., from a sole proprietorship to a partnership or corporation).

EXAMPLE C: A debt has been placed with a private collection firm and it appears likely that the firm will collect the debt.

EXAMPLE D: The age or health of a debtor is such that it is unlikely that the debtor will be receiving any payments from a public agency.

EXAMPLE E: The debtor is a foreign student who has left the country.

EXAMPLE F: The debtor is in bankruptcy.

EXAMPLE G: Pursuant to statute or federal regulations, certain agencies cannot write off debts. If the debt of one of these agencies has been owed for a substantial amount of time, it may be reasonable to assume that referral would not be cost-effective (e.g., the debtor has changed its name or address or for some other reason would be impossible to locate).

40.3(2) *Minimal debt amounts accepted.* Before a debt may be placed in the offset program, the amount of a debtor's original liability must be at least \$50, except when the source of the claim is a tax refund or tax rebate, in which case the debt may be, at a minimum, \$25.

40.3(3) *Debts legally enforceable.* Public agencies may only place debts in the offset program if the debts are legally enforceable and all of the following conditions are satisfied:

a. The debt shall have been established (liquidated) by one of the following means:

(1) Mutual written agreement between the debtor and the public agency;

(2) Alternative procedures authorized by applicable state or federal law with respect to a "qualifying debt" as defined in Iowa Code section 8A.504(1); or

(3) Court proceeding or administrative process which included notice to the debtor and an opportunity for the debtor to contest the amount of the debt through a contested case procedure under Iowa Code chapter 17A or a substantially equivalent process.

b. The debt shall have been reduced to a final judgment or final agency determination that is no longer subject to appeal, certiorari, or judicial review or shall have been affirmed through appeal, certiorari, or judicial review.

c. The debt shall be in an amount certain that is past due and not subject to any legal prohibition to collection.

40.3(4) *Debtor's opportunity to challenge placement of debt in offset program.* Unless otherwise provided by applicable state or federal law for a "qualifying debt" as defined in Iowa Code section 8A.504(1) "c," debts shall not be placed in the offset program until after the public agency has:

a. Made a good-faith effort to collect the debt through other means;

b. Provided the debtor advance notice that the debt will be placed in the offset program if not paid when due; and

c. Provided a formal or informal opportunity for the debtor to challenge placement of the debt in the offset program. Such opportunity may be separate from or combined with the debtor's opportunity to contest the amount of the debt. The public agency has the burden to determine whether due process will

be satisfied under the circumstances by the form of the opportunity provided for the debtor to challenge placement of the debt in the offset program.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.4(8A) Duties of the agency. Public agencies that seek to place debts in the offset program shall have the following duties regarding the department and debtors.

40.4(1) Notification to the department.

a. A public agency seeking to place debts in the offset program must provide a list of debtors to the department. This list must be in a format and type prescribed by the department and include only information relevant to the identification of the debtors owing debts to the public agency.

b. The director shall not process a claim under the provisions of Iowa Code section 8A.504 until notification is received from the public agency that the debt satisfies the requirements of rule 11—40.3(8A) or, in the case of a debt owed to a district court clerk, is a “court debt” as defined in Iowa Code section 602.8107(1) which has been due for 30 or more days. The agency shall provide, along with each liability file, a written statement to the director declaring that the provisions of this paragraph are satisfied.

40.4(2) Notification of change in status of debt. Each public agency that has chosen to submit a debt for participation in the offset program must notify the department immediately of any change in the status of the public agency’s individual debts submitted under the offset program. This notification shall be made no later than 30 calendar days from the occurrence of the change. A change in status may come from payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

40.4(3) Semiannual certification of file. Each public agency that has provided a liability file to the department shall be required to recertify the file to the department semiannually. This recertification shall be made in a manner prescribed by the director. Debtors not recertified in the manner prescribed will be removed from the liability file.

40.4(4) Notification to debtor. Each public agency shall send notification to the debtor within 10 calendar days from the date the agency was notified by the department of a potential offset. This notification shall include:

- a. The public agency’s right to the payment in question.
- b. The public agency’s right to recover the payment through the offset procedure.
- c. The basis of the public agency’s case in regard to the debt.
- d. The right of the debtor to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- e. The debtor’s right to appeal the offset and the required appeal procedure.
- f. The name of the public agency to which the debt is owed, with a telephone number for the debtor to contact the public agency regarding questions about the offset.

The department may require that a copy of this notice be sent to the department, but an agency is not required to routinely send such notices to the department.

40.4(5) Payment of residual funds to debtor. It is the responsibility of the public agency to reimburse the debtor for the difference between the amount of liability payable and the amount of the claim payable to the debtor.

40.4(6) Appeal. Debtors shall have the right to appeal the application of an offset upon notice of the potential offset. An agency subject to Iowa Code chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with Iowa Code chapter 17A. Other public agencies shall give notice, conduct hearings, and allow appeals in a manner substantially equivalent to that provided under Iowa Code chapter 17A.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.5(8A) Duties of the department—performance of the offset. The department will develop procedures for administering each offset program request by a public agency on an individual debtor basis. Procedures will vary in order to achieve the greatest efficiency in administering each offset.

Before issuing an authorized payment to a person or entity, the department will match the payment against a debt listing provided by the public agencies participating in the offset program. The department will notify the public agency of the debtor's or entity's name, address, identifying number, and amount of the entitled payment.

The department shall hold the payment which offsets the liquidated sum due and payable for a period not to exceed 45 days while awaiting notification from the agency as to the amount required to satisfy the debtor's or entity's debt to the state. If notification is not made to the department by the public agency within 45 days, the amount of the payment shall be released to the debtor or entity.

The department will make the offset only after the public agency has notified the debtor or entity as prescribed in subrule 40.4(4). The department shall then refund any balance amount due from the public agency to the debtor or entity.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.6(8A) Multiple claims—priority of payment. In the case of multiple claims to payments filed under Iowa Code section 8A.504, after satisfaction of the provisions of Iowa Code section 422.73, priority shall be given to claims in the following order:

1. Claims filed by the child support recovery unit or the foster care recovery unit;
2. Claims filed by a clerk of the district court;
3. Claims filed by the college student aid commission;
4. Claims filed by the investigation division of the department of inspections and appeals; and
5. All other claims filed by public agencies under Iowa Code section 8A.504.

The order of priority for offset against multiple claims by more than one public agency shall be determined by the date the liability was listed with the department. Subsequent entries of claims by public agencies shall be offset in order of the date the listing was made with the department.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.7(8A) Payments of offset amounts. Payments to the public agency requesting participation in the offset program shall be made by the department by the last day of the month in which the request is made.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.8(8A) Reimbursement for offsetting liabilities. Costs incurred by the department in administering the offset program will be charged to the public agency requesting placement of the debt into the offset program. These costs will be deducted from the gross proceeds collected through offset and may include direct expenses such as salaries, supplies, equipment, and system modification and development costs; or indirect costs such as space, security, or utility costs. If the above-described procedure is prohibited by higher state or federal law, the director shall allow reimbursement in a manner which conforms to the higher law. Prior to placing a debt in the offset program, the public agency will enter into a memorandum of understanding with the department of administrative services which will outline the costs, responsibilities of the parties, and methods for remuneration of the offset funds.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.9(8A) Confidentiality of information. Information shared between the department and the public agencies wishing to participate in the offset program shall be deemed confidential pursuant to Iowa Code section 8A.504(2)“b” and shall be disclosed only to the extent necessary to sufficiently identify the debtor(s) liable to the public agency. Identifying information shall be used only for the purpose of participation in the offset program.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

OFFSET OF DEBTS OWED TO CLERKS OF THE DISTRICT COURT

11—40.10(8A) Incorporation by reference. The department incorporates by reference rules 11—40.1(8A) to 11—40.9(8A). “Debtor,” for purposes of rules 11—40.10(8A) to 11—40.15(8A), shall pertain only to a debtor who owes a debt to a clerk of district court.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.11(8A) Applicability and procedure. For liabilities accrued and owing to any and all clerks of the Iowa district court, the department shall issue a written notice informing any debtor having a valid claim against a public agency that an offset will be applied to the debt. The department will apply the offsets for district clerks as provided in Iowa Code section 8A.504, and the department will send a written notice to the debtor. Subsequently, the department will also provide administrative procedures and available remedies for contesting the validity of such an offset. The Iowa district court will provide the procedures and remedies for challenging the underlying liability at issue. This rule applies only to liabilities and debts owed to the clerks of the Iowa district court.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.12(8A) Notice of offset. The department shall send written notification of the offset to the debtor within 10 calendar days from the date the department is notified of such debt by the judicial branch. This notification must include:

1. The clerk of court claiming the liability;
2. The clerk of court’s right to the payment in question;
3. The clerk of court’s right to recover the payment through the offset program;
4. The basis of the clerk of court’s case in regard to the debt;
5. The right of the debtor to request, within 15 days of the mailing of the notice, that the payment between parties be split when the payment in question is jointly owned or otherwise owned by two or more debtors;
6. The right of the debtor to contest the right of offset and the validity of such offset with the department by mailing, to the department’s legal counsel, a protest within 15 days of the mailing of such notice, and that the procedure to follow in that appeal will conform, according to the context, to the rules of the department involving protests and contested case proceedings in 11—Chapter 7;
7. The telephone number of the representative the debtor may contact concerning questions regarding the validity of the offset and the procedures for the offset;
8. That the debtor has the opportunity to contest the validity and amount of the liability by mailing, within 15 days of mailing of the notice of offset, a written application to contest the liability to the appropriate clerk of the Iowa district court; and
9. The name of the clerk of the district court and the telephone number for the debtor to contact concerning questions relating to the validity of the underlying liability and regarding the validity of the amount owed.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.13(8A) Procedure for contesting. The debtor may contest the validity or amount of the underlying liability by mailing written notification of the debtor’s intent to contest such a liability to the appropriate clerk of the Iowa district court. The Iowa district court will provide the debtor with the procedure and remedies for contesting the validity and amount of the underlying liability.

The debtor may contest the validity of the offset or the right of the offset by mailing written notification to:

Department of Administrative Services
General Counsel
Hoover State Office Building
Third Floor
Des Moines, Iowa 50319

The department will provide the procedure and remedies for contesting the validity of the offset and right of offset pursuant to the applicable contested case rules set forth in 11—Chapter 7.

If a debtor gives written notice of intent to contest the offset validity or the right of offset, the clerk of the district court and the department will hold a payment in abeyance until the final disposition of the contested liability or offset is determined.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.14(8A) Postoffset notification and procedure. Following the offset, the department will notify the debtor that the offset was performed. It is the responsibility of the department to make payment to the debtor liable to the Iowa district court clerk of any amount to which the Iowa district court clerk is not entitled to receive under the offset, in accordance with established procedures.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

11—40.15(8A) Report of satisfaction of obligations. At least monthly, the department will file with the judicial branch a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of an offset obligation. No additional or separate written notice from the department regarding the performed offsets is required.

[ARC 1842C, IAB 1/21/15, effective 2/25/15]

These rules are intended to implement Iowa Code sections 8A.504, 422.16, 422.20, 422.72, and 422.73.

[Filed emergency 12/5/03—published 12/24/03, effective 12/17/03]

[Filed 1/28/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]

[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]

[Filed emergency 1/19/05—published 2/16/05, effective 1/19/05]

[Filed ARC 1842C (Notice ARC 1742C, IAB 11/26/14), IAB 1/21/15, effective 2/25/15]

ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]

[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

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APPRENTICESHIP TRAINING PROGRAM

261—12.1(15,15B) Authority. The authority for adopting rules establishing an apprenticeship training program is provided in Iowa Code sections 15B.3(6) and 15.106A.
[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.2(15,15B) Purpose. The purpose of the apprenticeship training program is to assist eligible apprenticeship programs by providing financial assistance in the form of training grants.
[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.3(15,15B) Definitions.

“Apprentice” means a person who is at least 16 years of age, except where a higher minimum age is required by law, who is employed in an apprenticeable occupation, and is registered in Iowa with the U.S. Department of Labor, Office of Apprenticeship.

“Apprenticeable occupation” means an occupation approved for apprenticeship by the U.S. Department of Labor, Office of Apprenticeship.

“Apprenticeship program” means a program registered with the U.S. Department of Labor, Office of Apprenticeship, which includes terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

“Apprenticeship sponsor” means an entity operating an apprenticeship program or an entity in whose name an apprenticeship program is being operated, which is registered with or approved by the U.S. Department of Labor, Office of Apprenticeship.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Financial assistance” means assistance provided only from the funds, rights, and assets legally available to the authority and includes but is not limited to assistance in the forms of grants, loans, forgivable loans, and royalty payments.

“Fund” means the apprenticeship training program fund created in Iowa Code section 15B.3.

“Lead apprenticeship sponsor” means a trade organization, labor organization, employer association, or other incorporated entity representing a group of apprenticeship sponsors.

“Program” means the apprenticeship training program established pursuant to this chapter.

“Total instructional hours” means the total instructional hours reported by an apprenticeship sponsor or lead apprenticeship sponsor. “Total instructional hours” does not mean the minimum federal standard for instructional hours.

“Training year” means the most recent calendar year.
[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.4(15,15B) Annual appropriations—amount of assistance available—standard contract—use of funds.

12.4(1) The authority will provide financial assistance under the program from moneys appropriated for purposes of the program pursuant to Iowa Code section 15.342A and 2014 Iowa Acts, House File 2460, section 3.

12.4(2) The total amount of assistance available for a fiscal year will be the amount authorized by law as described in subrule 12.4(1) less an amount equal to 2 percent of the moneys in the fund appropriated to the authority for administrative purposes.

12.4(3) The authority will disburse funds to an apprenticeship sponsor or lead apprenticeship sponsor only after approval of a completed application and execution of a contract between the apprenticeship sponsor or lead sponsor and the authority. The authority shall have sole discretion in determining whether an applicant has provided all necessary information as required under this chapter. The authority will prepare a standard contract for the program to be executed by each eligible applicant. Each executed contract will provide for an amount of financial assistance in the form of a training grant as determined pursuant to rule 261—12.6(15,15B). All changes or amendments to the standard contract

shall be at the authority's sole discretion. All such changes shall be consistent with the requirements of Iowa Code chapter 15B and of this chapter. The authority will notify apprenticeship sponsors and lead apprenticeship sponsors by the end of a calendar year of any standard contract changes for the upcoming application period.

12.4(4) Financial assistance received by an apprenticeship sponsor or lead apprenticeship sponsor under this rule shall be used only for the cost of conducting and maintaining an apprenticeship program. The authority may require an apprenticeship sponsor or lead apprenticeship sponsor to provide any information reasonably necessary to verify the use of program funds.

[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.5(15,15B) Eligibility for assistance. An eligible apprenticeship sponsor or lead apprenticeship sponsor may apply to the authority for assistance under the program. To be eligible, an applicant must meet all of the following requirements:

12.5(1) The applicant is an apprenticeship sponsor, or a lead apprenticeship sponsor, that is conducting an apprenticeship program registered with the U.S. Department of Labor, Office of Apprenticeship, through Iowa, for apprentices who will be employed at Iowa worksites.

12.5(2) The applicant provides all of the following information to the authority:

- a. The federal apprentice registration number of each apprentice in the apprenticeship program.
- b. The address and a description of the physical location where in-person training is conducted.
- c. A certification of the apprenticeship sponsor's training standards as most recently approved by the U.S. Department of Labor, Office of Apprenticeship, or, in the case of a lead apprenticeship sponsor, a representative sample of participating members' training standards.
- d. A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the U.S. Department of Labor, Office of Apprenticeship, unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment. In the case of a lead apprenticeship sponsor, a sampling of compliance reviews or quality assessments from participating members will be sufficient.

e. Any other information the authority reasonably determines is necessary.

12.5(3) The applicant shall apply on or before February 1 of each year in which funding is available. The application submitted by the applicant should reflect program information from the prior training year. Because all applications to the program must be received in order to determine the amount of financial assistance available under rule 261—12.6(15,15B), the authority will not accept applications on a continuous basis.

[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.6(15,15B) Determination of financial assistance grants. The authority will provide financial assistance in the form of training grants to apprenticeship sponsors or lead apprenticeship sponsors. The maximum amount of financial assistance provided to an eligible apprenticeship sponsor or lead apprenticeship sponsor will be calculated in the following manner:

12.6(1) By determining the total amount of funding allocated for purposes of training grants for apprenticeship programs as described in rule 261—12.4(15,15B).

12.6(2) By adding together all of the following:

a. The total number of apprentices trained by all applying apprenticeship sponsors or lead apprenticeship sponsors during the most recent training year as calculated on the last day of the training year.

b. The total number of contact hours that apprenticeship instructors for all applying apprenticeship sponsors or lead apprenticeship sponsors spent in contact with apprentices during the most recent training year. For purposes of this paragraph, "contact hours" includes the time spent instructing apprentices in person or, in the case of a lead apprenticeship sponsor with programs totaling 100 or more total instructional hours, "contact hours" includes the time spent in online training if the total amount of online instruction does not account for more than 30 percent of the total instructional hours.

12.6(3) By adding together all of the following:

a. The total number of apprentices trained by a single applying apprenticeship sponsor or lead apprenticeship sponsor during the most recent training year as calculated on the last day of the training year.

b. The total number of contact hours that apprenticeship instructors for a single applying apprenticeship sponsor or lead apprenticeship sponsor spent in contact with apprentices during the most recent training year. For purposes of this paragraph, “contact hours” includes the time spent instructing apprentices in person or, in the case of a lead apprenticeship sponsor with programs totaling 100 or more total instructional hours, “contact hours” includes the time spent in online training if the total amount of online instruction does not account for more than 30 percent of the total instructional hours.

12.6(4) By determining the proportion, stated as a percentage, that a single applying apprenticeship sponsor’s or lead apprenticeship sponsor’s total calculated pursuant to subrule 12.6(3) bears to all applying apprenticeship sponsors’ or lead apprenticeship sponsors’ total calculated pursuant to subrule 12.6(2).

12.6(5) By multiplying the percentage calculated in subrule 12.6(4) by the amount determined in subrule 12.6(1).

[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.7(15,15B) Application submittal and review process.

12.7(1) The authority will develop a standardized application and make the application available to applicants. To apply for assistance under the program, an applicant shall submit an application to the authority. Applications may be sent to the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available by contacting the authority at that address or from the authority’s Internet site at www.iowaeconomicdevelopment.com.

12.7(2) The director shall have final funding authority on applications for financial assistance under this program. Applications will be reviewed and processed for eligibility by the staff of the authority. The director of the authority will approve, defer or deny applications consistent with the requirements of this chapter.

[ARC 1826C, IAB 1/21/15, effective 2/25/15]

261—12.8(15,15B) Notice and reporting.

12.8(1) *Notice of award.* Program applicants will be notified in writing of the funding decision, including any conditions and terms of the approval as may be required under the program.

12.8(2) *Reporting.* An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor’s office.

These rules are intended to implement Iowa Code chapter 15B.

[ARC 1826C, IAB 1/21/15, effective 2/25/15]

[Filed ARC 1826C (Notice ARC 1692C, IAB 10/29/14), IAB 1/21/15, effective 2/25/15]

CHAPTER 13
IOWA BUSINESS-INDUSTRY INFORMATION AND TRAINING NETWORK
Rescinded IAB 7/19/95, effective 8/23/95

CHAPTER 14
YOUTH AFFAIRS
Transferred to 345—Ch 12, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File
2409

CHAPTERS 15 and 16
Reserved

CHAPTER 17
HIGH TECHNOLOGY APPRENTICESHIP PROGRAM
Rescinded IAB 7/4/07, effective 6/15/07

CHAPTER 18
WORK FORCE INVESTMENT PROGRAM
Transferred to 345—Ch 13, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File
2409

CHAPTER 19
IOWA JOB TRAINING PARTNERSHIP PROGRAM
Transferred to 345—Ch 14, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File
2409.

CHAPTER 31
ECONOMIC DEVELOPMENT REGION INITIATIVES

261—31.1(15E) Purpose. If funding is made available, the authority resources shall be available to assist an economic development region that has established a focused economic development effort. This effort shall include a regional development plan relating to one or more of the following areas:

1. Regional marketing strategies.
2. Development of the information solutions sector.
3. Development of the advanced manufacturing sector.
4. Development of the life sciences and biotechnology sector.
5. Development of the insurance or financial services sector.
6. Physical infrastructure including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure.
7. Entrepreneurship.
8. Development of the alternative and renewable energy sector.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter; ARC 1822C, IAB 1/21/15, effective 12/19/14]

261—31.2(15E) Types of assistance. The following types of assistance are governed by the divisions of this chapter:

1. Establishment of economic development regions.
2. Economic development revolving loan funds.
3. Business accelerators.
4. Small business development center assistance.
5. Iowa business resource assistance.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.3(15E) Financial assistance. Financial assistance under the economic development region initiative comes from the moneys allocated for such purposes by the authority pursuant to Iowa Code section 15.335B.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.4(15E) Definitions.

“Economic development region” shall consist of three or more contiguous counties or two or more contiguous counties and one or more public or private, nonprofit entities that have entered into an agreement to pursue mutual economic development goals with a regional focus.

“Economic development region assistance fund” means a fund created pursuant to Iowa Code section 15.335B.

“Economic development region revolving fund” means a fund established to benefit development efforts in an economic development region.

“Regional economic development revenue sharing pilot project” means a pilot project for one or more approved regions.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

DIVISION I
ECONOMIC DEVELOPMENT REGION INITIATIVE—FINANCIAL ASSISTANCE

261—31.5(15E) Uses of funds under the economic development region initiative. Financial assistance from the economic development region assistance fund may be used for the following:

31.5(1) Physical infrastructure. The installation of physical infrastructure needs including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure, related to the development of fully served business and industrial sites by one or more of the region’s economic development partners or for the installation of infrastructure related to a new business location or expansion. Match is one dollar of local funds for every two dollars received

from the economic development region assistance fund. The economic development region must demonstrate all of the following:

- a. The ability to provide matching moneys on a basis of dollars received from the economic development region assistance fund.
- b. The commitment of the specific business partner including, but not limited to, a letter of intent defining a capital commitment or a percentage of equity.
- c. That all other funding alternatives have been exhausted.

31.5(2) *Regional economic development revenue sharing pilot project.* Establishment and administration of a regional economic development revenue sharing pilot project for one or more regions.

31.5(3) *Entrepreneurial initiative.* Establishment of an approved entrepreneurial initiative. Match is one dollar of local funds for every two dollars received from the economic development region assistance fund.

31.5(4) *Business closure due to consolidation.* An existing business threatened with closure due to a potential consolidation to an out-of-state location. The economic development region may apply for financial assistance from the economic development region assistance fund for the purchase, rehabilitation, or marketing of a building that has become available due to the closing of an existing business as a result of a consolidation to an out-of-state location. Match is one dollar of local funds for every three dollars received from the economic development region assistance fund.

31.5(5) *Business succession assistance program.* Match is one dollar of local funds for every two dollars received from the economic development region assistance fund.

31.5(6) *Unique or innovative regional projects.* Match is on a one-to-one basis.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.6(15E) Application process and approval process.

31.6(1) *Application process.* The authority will only accept competitive applications submitted during the filing window. For the purpose of this rule, the filing window shall start on July 1 and end on July 15 of any fiscal year in which the authority opens the application process. If July 15 falls on a weekend, the deadline shall be extended to the next business day. The authority has developed an application process and will post all relevant application information on iowagrants.gov.

31.6(2) *Approval process.* The director of the authority will establish a review committee consisting of the authority's industry partners. The committee may recommend full or partial funding or no funding of any or all applicants.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.7(15E) Reporting requirements. Award recipients in economic development regions shall provide a close-out report to the authority outlining how the funds were invested in Iowa's future. The authority shall develop the reporting format for all required close-out reports.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

DIVISION II ECONOMIC ENTERPRISE AREAS

261—31.8(15E) Description. An "economic enterprise area" means a designated "economic development region" that shall consist of at least one county containing no city with a population of more than 23,500 and shall meet at least three of the following criteria:

1. A per capita income of 80 percent or less than the national average.
2. A household median income of 80 percent or less than the national average.
3. Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.
4. A population density in the economic enterprise area of less than ten people per square mile.

5. A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

6. An unemployment rate greater than the national rate of unemployment.

7. More than 20 percent of the population of the economic enterprise area consisting of people over the age of 65.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.9(15E) Funding.

31.9(1) Approved areas may apply for up to \$75,000 each fiscal year until June 30, 2015. The actual amount available each year will be established by the authority in the annual allocation of funds for economic development region initiatives described in 261—paragraph 2.4(7) “b.” No more than ten economic development regions may be approved by the authority as economic enterprise areas.

31.9(2) In order to receive financial assistance under this division, an economic enterprise area must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from the economic development region assistance fund.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.10(15E) Eligible use of funds. Funds available for economic enterprise areas may be used as follows:

1. Economic development-related strategic planning and marketing for the region as a whole.
2. Economic development of fully served business sites.
3. The construction of speculative buildings on a fully served lot.
4. The rehabilitation of an existing building to marketable standards.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.11(15E) Application process and approval process.

31.11(1) *Application process.* The authority will only accept competitive applications submitted during the filing window. For the purpose of this rule, the filing window shall start on July 1 and end on July 15 of any fiscal year in which the authority opens the application process. If July 15 falls on a weekend, the deadline shall be extended to the next business day. The authority has developed an application process and will post all relevant application information on iowagrants.gov.

31.11(2) *Approval process.* The director of the authority will establish a review committee consisting of the authority’s industry partners. The committee may recommend full or partial funding or no funding of any or all applicants.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.12(15E) Reporting requirements. Award recipients shall provide a close-out report to the authority outlining how funds were invested in Iowa’s future.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

DIVISION III BUSINESS ACCELERATORS

261—31.13(15E) Description and purpose. The authority shall establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program shall be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter; ARC 1822C, IAB 1/21/15, effective 12/19/14]

261—31.14(15E) Definitions.

“*Business accelerator*” means an organization that fosters the accelerated growth of new and existing Iowa businesses.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.15(15E) Requirements and qualifications for business accelerator entities. Business accelerator applicants must meet all of the following criteria:

1. The business accelerator must be a not-for-profit organization affiliated with an area chamber of commerce, a community or county organization, or an economic development region.
 2. The geographic area served by a business accelerator must include more than one county.
 3. The business accelerator must possess the ability to provide service to a specific type of business as well as to meet the broad-based needs of other types of start-up entrepreneurs.
 4. The business accelerator must possess the ability to market business accelerator services in the region and the state.
 5. The business accelerator must possess the ability to communicate with and cooperate with other business accelerators and similar service providers in the state.
 6. The business accelerator must possess the ability to engage various funding sources for start-up entrepreneurs.
 7. The business accelerator must possess the ability to communicate with and cooperate with various entities for purposes of locating suitable facilities for clients of the business accelerator.
 8. The business accelerator must possess the willingness to accept referrals from the economic development authority.
 9. The business accelerator must refer 20 businesses per year to the Venture Network of Iowa.
- [ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.16(15E) Other considerations. In determining whether a business accelerator qualifies for financial assistance, the authority may consider any of the following:

1. The business experience of the business accelerator's professional staff.
 2. The business plan review capacity of the business accelerator's professional staff.
 3. The business accelerator's professional staff with demonstrated disciplines in all aspects of business experience.
 4. The business accelerator's professional staff with access to external service providers including legal, accounting, marketing, and financial services.
- [ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.17(15E) Application procedures.

31.17(1) Application process and approval process.

a. Application process. The authority will only accept competitive applications submitted during the filing window. For the purpose of this rule, the filing window shall start on July 1 and end on July 15 of any fiscal year in which the authority opens the application process. If July 15 falls on a weekend, the deadline shall be extended to the next business day. The authority has developed an application process and will post all relevant application information on iowagrants.gov.

b. Approval process. The director of the authority will establish a review committee consisting of the authority's industry partners. The committee may recommend full or partial funding or no funding of any or all applicants.

31.17(2) All requests for financial assistance must demonstrate the ability to provide matching moneys on the basis of a two dollar contribution of recipient moneys for every one dollar received in financial assistance from the authority.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

261—31.18(15E) Reporting. Business accelerators receiving financial assistance under this rule must submit an annual report to the authority documenting progress.

[ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter]

DIVISION IV
SMALL BUSINESS DEVELOPMENT CENTERS

261—31.19(81GA, HF868, HF809) Small business development center assistance. Rescinded ARC 1626C, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter.

DIVISION V
IOWA BUSINESS RESOURCE CENTERS

261—31.20(81GA, HF868, HF809) Iowa business resource centers. Rescinded **ARC 1626C**, IAB 9/17/14, effective 10/22/14; see Delay note at end of chapter.

These rules are intended to implement 2013 Iowa Code sections 15E.231 to 15E.233; 2011 Iowa Acts, chapter 118, section 20; and 2014 Iowa Acts, Senate File 2359.

[Filed 10/21/05, Notice 8/3/05—published 11/9/05, effective 12/14/05]

[Filed ARC 1626C (Notice ARC 1540C, IAB 7/9/14), IAB 9/17/14, effective 10/22/14]¹

[Filed Emergency ARC 1822C, IAB 1/21/15, effective 12/19/14]

¹ October 22, 2014, effective date of ARC 1626C [31.1 to 31.20] delayed 70 days by the Administrative Rules Review Committee at its meeting held October 14, 2014; delay lifted at the meeting held November 18, 2014.

CHAPTER 48
WORKFORCE HOUSING TAX INCENTIVES PROGRAM

261—48.1(15) Authority. The authority for adopting rules establishing a workforce housing tax incentives program is provided in Iowa Code section 15.106A and in 2014 Iowa Acts, House File 2448, section 18.

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

261—48.2(15) Purpose. The purpose of the program is to assist the development of workforce housing in Iowa communities by providing incentives for housing projects that are targeted at middle-income households and that focus on the redevelopment or repurposing of existing structures.

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

261—48.3(15) Definitions. As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Brownfield site*” means an abandoned, idled, or underutilized property where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the site on which the property is located. A brownfield site does not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. In order to administer similar programs in a similar manner, the authority will attempt to apply this definition in substantially the same way as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294 and may consult members of the council or other staff as necessary.

“*Community*” means a city or county.

“*Costs directly related*” means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. “Costs directly related” includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. “Costs directly related” does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

“*Grayfield site*” means a property meeting all of the following requirements:

(1) The property has been developed and has infrastructure in place but the property’s current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

(2) The property’s improvements and infrastructure are at least 25 years old and one or more of the following conditions exists:

1. Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of 12 months or more.

2. The assessed value of the improvements on the property has decreased by 25 percent or more.

3. The property is currently being used as a parking lot.

4. The improvements on the property no longer exist.

In administering the program, the authority will attempt to apply this definition in substantially the same manner as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294.

“*Greenfield site*” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“*Housing business*” means a business that is a housing developer, housing contractor, or nonprofit organization that completes a housing project in the state.

“*Housing project*” means a project located in this state meeting the requirements of rule 261—48.4(15).

“*Laborshed area*” means the same as defined in 261—Chapter 173.

“*Laborshed wage*” means the same as defined in 261—Chapter 173.

“*Multi-use building*” means a building whose street-level ground story is used for a purpose that is other than residential, and whose upper story or stories are currently used primarily for a residential purpose, or will be used primarily for a residential purpose after completion of the housing project associated with the building.

“*New dwelling units*” means dwelling units that are made available for occupancy in a community as a result of a housing project and that were not available for occupancy as residential housing in the community for a period of at least six months prior to the date on which application is made to the authority under the program. If a dwelling unit has served as residential housing and been occupied during the six months preceding the date on which application is made to the authority under the program, then the dwelling unit shall be presumed not to be a new dwelling unit.

“*Program*” means the workforce housing tax incentives program administered under this chapter.

“*Qualifying new investment*” means costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, “costs directly related to acquisition” includes the costs associated with the purchase of real property or other structures.

(1) “Qualifying new investment” includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community.

(2) The amount of costs that may be used to compute “qualifying new investment” shall not exceed the costs used for the first \$150,000 of value for each dwelling unit that is part of a housing project.

(3) “Qualifying new investment” does not include the following:

1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.

2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.

3. Any costs, including acquisition costs, incurred before the housing project is approved by the authority.

“*Rehabilitation, repair, or redevelopment*” means construction or development activities associated with a housing project that are undertaken for the purpose of reusing or repurposing existing buildings or structures as new dwelling units. Rehabilitation, repair, or redevelopment does not include new construction of dwelling units at a greenfield site. Rehabilitation, repair, or redevelopment includes new structures at a qualified grayfield site.

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

261—48.4(15) Housing project requirements.

48.4(1) Minimum requirements. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the following requirements:

a. The project includes at least one of the following:

(1) Four or more single-family dwelling units.

(2) One or more multiple dwelling unit buildings each containing three or more individual dwelling units.

- (3) Two or more dwelling units located in the upper story of an existing multi-use building.
- b.* The project consists of any of the following:
- (1) Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units.
 - (2) The rehabilitation, repair, or redevelopment of dilapidated dwelling units.
 - (3) The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.
 - (4) The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).
- c.* (1) Except as provided in subparagraph (2) below, the average dwelling unit cost does not exceed \$200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project.
- (2) The average dwelling unit cost does not exceed \$250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(2).
- d.* The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

48.4(2) Distressed workforce housing community designations.

a. The determination as to whether a community is considered a distressed workforce housing community is within the discretion of the authority. The authority will consider applications from communities for designation as a distressed workforce housing community for purposes of this subrule. A community must apply for and receive such a designation before the authority will approve any housing project application seeking to establish eligibility under subparagraph 48.4(1)"*b*"(4). A designation as a distressed workforce housing community will last one year, but communities may reapply each year. The authority will make a determination on the distressed workforce housing status of a community after considering all of the following factors:

- (1) Whether or not the community has a severe housing shortage relative to demand, low vacancy rates, or rising housing costs combined with low unemployment as described in paragraph 48.4(2)"*b.*"
- (2) The relative merits of all applications for designation as a distressed workforce housing community. The relative merits will be assessed according to the process and criteria described in paragraph 48.4(2)"*b.*"
- (3) The demand for projects applying under this subrule compared to the demand for projects applying as rehabilitation, repair, or redevelopment projects.

b. In considering the factors described in paragraph 48.4(2)"*a.*," the authority will attempt to quantify the extent of housing distress in a community by evaluating and scoring each application from 1 to 100 according to the following criteria:

- (1) The results of a housing needs assessment submitted to the authority and the extent to which the assessment indicates a distressed housing market in the community: 10 points.

The housing needs assessment shall be prepared by a third party and shall have been prepared no more than three years prior to the date on which a housing project application is submitted to the authority. Such an assessment shall address whether or not the community has a severe housing shortage relative to demand, low vacancy rates, or rising housing costs combined with low unemployment.

- (2) The annual number of building permits issued in the community for the most recent three-year period and the extent to which a low volume of permits indicates that the local housing market is in need of additional incentives to increase development: 10 points.

For purposes of this criterion, the authority will consider a low annual permit volume to be either 100 permits or less or a number of issued permits that is 1 percent or less of the community's currently available housing stock.

(3) The homeowner vacancy rate in the community and the extent to which the rate indicates that additional incentives are needed to increase the available housing stock: 10 points.

For purposes of this criterion, the authority will consider a vacancy rate of 1 percent to be low and a vacancy rate of 2 percent to be a typically acceptable rate on a national basis.

(4) The annual volume of homeowner unit sales in the community for the most recent three-year period and the extent to which a low volume indicates a shortage of available housing: 10 points.

For purposes of this criterion, the authority will consider information indicating that the volume of sales in a community is materially lower than the volume of sales in substantially similar communities elsewhere in the state or nation.

(5) The annual average length of time it takes to sell homeowner units in the community for the most recent three-year period and the extent to which the average length of time indicates high demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider an average time of 90 days or less to indicate a high demand for available housing.

(6) The annual average rental vacancy rate in the community and the extent to which a low vacancy rate indicates high demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider a rental vacancy rate of 5 percent or less to be a low vacancy rate.

(7) The annual average length of time it takes to lease rental units in the community for the most recent three-year period and the extent to which the average length of time indicates high demand for rental housing in the community: 10 points.

For purposes of this criterion, the authority will consider an average time of 30 days or less to indicate a high demand for available housing.

(8) The average housing costs in the community and the extent to which those costs are considered affordable: 10 points.

For purposes of this criterion, the authority will only consider data from an industry standard housing affordability index.

(9) The average unemployment rate for the community and the extent to which a low unemployment rate contributes to increased demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider unemployment data from both the community and the applicable laborshed area.

(10) The laborshed wage applicable to the community and the extent to which low relative wages negatively impact the affordability of housing in the community: 10 points.

For purposes of this criterion, the authority will use laborshed wages as calculated by the Iowa department of workforce development for purposes of the high quality jobs program.

48.4(3) *Minimum score required for distressed community designations.* To be designated as a distressed workforce housing community under subrule 48.4(2), a community must receive a score of 70 points or more.

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

261—48.5(15) Housing project application and agreement.

48.5(1) Application.

a. A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule. The authority will accept applications on a continuous basis and will review applications in the order received. The authority will acknowledge receipt of the application and notify the applicant within 30 days as to whether the project will be registered pursuant to this rule.

b. The application required in paragraph 48.5(1) “*a*” shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least \$1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9).

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

48.5(2) Registration.

a. Upon review of the application, the authority may register the housing project under the program. If the authority registers the housing project, the authority shall make a preliminary determination as to the amount of tax incentives for which the housing project qualifies.

b. After registering the housing project, the authority shall notify the housing business of successful registration under the program. The notification shall include the amount of tax incentives under rule 261—48.6(15) for which the housing business has received preliminary approval and a statement that the amount is a preliminary determination only. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of the requirements in subrule 48.5(3).

48.5(3) Agreement and fees.

a. Upon successful registration of the housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. A housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

d. Upon completion of a housing project, an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant authorized to practice in this state, shall be submitted to the authority.

e. Upon review of the examination and verification of the amount of the qualifying new investment, the authority may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim.

48.5(4) Maximum incentives amount.

a. The maximum aggregate amount of tax incentives that may be awarded under rule 261—48.6(15) to a housing business for a housing project shall not exceed \$1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.6(15) than is allowed by the limitation imposed in paragraph 48.5(4) "a," the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund provided in subrule 48.6(2) and the workforce housing investment tax credits provided in subrule 48.6(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.5(4) "a."

c. The authority shall issue tax incentives under the program on a first-come, first-served basis until the maximum amount of tax incentives allocated pursuant to Iowa Code section 15.119(2) is reached. The authority shall maintain a list of registered housing projects under the program so that if the maximum aggregate amount of tax incentives is reached in a given fiscal year, registered housing projects that were completed but for which tax incentives were not issued shall be placed on a wait list

in the order the registered housing projects were registered and shall be given priority for receiving tax incentives in succeeding fiscal years.

48.5(5) Termination and repayment. The failure by a housing business in completing a housing project to comply with any requirement of this program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the reduction, termination, or rescission of the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.6(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

261—48.6(15) Workforce housing tax incentives.

48.6(1) Eligibility. A housing business that has entered into an agreement pursuant to rule 261—48.5(15) is eligible to receive the tax incentives described in subrules 48.6(2) and 48.6(3).

48.6(2) Sales tax refunds. A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a housing project. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of this program.

48.6(3) Income tax credits.

a. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment of a housing project.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. An individual may claim a tax credit under this subrule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

e. (1) To claim a tax credit under this subrule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return.

(2) The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible housing business, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

(3) The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of this program.

(4) Tax credit certificates issued under an agreement entered into pursuant to subrule 48.5(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than \$1,000 shall not be transferable.

(5) Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

(6) A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the

amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V.

f. For purposes of the individual and corporate income taxes and the franchise tax, the increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the tax credit computed under this subrule.

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

261—48.7(15) Annual program funding allocation, reallocation, and management of excess demand.

48.7(1) Each year the authority will allocate to the program a portion of the maximum aggregate tax credit cap described in Iowa Code section 15.119. For each fiscal year beginning on or after July 1, 2014, the authority will allocate not more than \$20 million for purposes of the program.

48.7(2) If, during a fiscal year, the authority determines that program demand is less than the amount initially allocated, the authority may reallocate unused amounts to other programs under Iowa Code section 15.119.

48.7(3) If, in any fiscal year, the authority determines that demand for the tax incentives is more than the amount allocated to the program pursuant to Iowa Code section 15.119, the authority will keep a waiting list of projects registered pursuant to rule 261—48.5(15) and will only enter into new agreements under the program as additional program funding becomes available. The authority will enter into agreements with registered projects on a first-come, first-served basis as determined by the order in which the projects were registered. A project successfully registered under the program will be considered to have priority as against other subsequently registered projects. However, registration under the program shall not obligate or otherwise bind the authority, or any other agency of the state, to execute a contract or issue tax incentives to an applicant under the program.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; see Delay note at end of chapter]

261—48.8(15) Application submittal and review process.

48.8(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309.

48.8(2) The authority has final decision-making authority on requests for financial assistance for this program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[ARC 1801C, IAB 12/24/14, effective 1/28/15]

These rules are intended to implement 2014 Iowa Acts, House File 2448.

[Filed ARC 1801C (Notice ARC 1628C, IAB 9/17/14), IAB 12/24/14, effective 1/28/15]¹

¹ January 28, 2015, effective date of 48.7(2) [ARC 1801C] delayed until the adjournment of the 2015 General Assembly by the Administrative Rules Review Committee at its meeting held January 6, 2015.

CHAPTER 65
BROWNFIELD AND GRAYFIELD REDEVELOPMENT

261—65.1(15) Purpose. The brownfield redevelopment program is designed to provide financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites. The redevelopment tax credits program for brownfields and grayfields is designed to provide financial assistance for the acquisition, remediation, or redevelopment of brownfield and grayfield sites.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.2(15) Definitions. As used in these rules, unless the context otherwise requires, the definitions in Iowa Code section 15.292 shall apply to this chapter. The following definitions shall also apply:

“Abandoned public building” means a vertical improvement constructed for use primarily by a political subdivision of the state for a public purpose and whose current use is outdated or prevents a better or more efficient use of the property by the current owner. “Abandoned public building” includes vacant, blighted, obsolete, or otherwise underutilized property.

“Acquisition” means the purchase of brownfield or grayfield property.

“Advisory council” means the brownfield redevelopment advisory council as established in Iowa Code section 15.294 consisting of five members.

“Affiliate” or *“affiliated entity”* means any entity to which one or more of the following applies:

1. The entity directly, indirectly, or constructively controls another entity.
2. The entity is directly, indirectly or constructively controlled by another entity.
3. The entity is subject to the control of a common entity. A common entity is one which owns directly or individually more than 10 percent of the voting securities of the entity.

“Authority” means the economic development authority.

“Board” means the economic development authority board pursuant to 2011 Iowa Code Supplement section 15.102.

“Brownfield site” means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site shall not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq.

“CERCLA” means Comprehensive Environmental Response, Compensation, and Liability Act as defined at 42 U.S.C. 9601 et seq.

“Characterization” means determination of both the nature and extent of contamination in the various media of the environment.

“Community” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“Contaminant” means any hazardous substance found in the various media of the environment.

“Council” means the brownfield redevelopment advisory council, as established in Iowa Code section 15.294.

“Fund” means the brownfield redevelopment fund established pursuant to Iowa Code section 15.293.

“Grant” means the donation or contribution of funds with no expectation or requirement that the funds be repaid.

“Grayfield site” means an abandoned public building or an industrial or commercial property that meets all of the following requirements:

1. Infrastructure on the property is outdated or prevents an efficient use of the property, including vacant, blighted, obsolete, or otherwise underutilized property.
2. Property improvements and infrastructure are at least 25 years old and one or more of the following conditions exist:
 - Thirty percent or more of a building located on the property is available for occupancy and has been vacated or unoccupied for at least 12 months;

- Assessed value of improvements on the property has decreased by 25 percent or more;
- The property is used as a parking lot;
- Improvements on the property no longer exist.

“*Green development*” means development which meets or exceeds the sustainable design standards as established by the state building code commissioner pursuant to Iowa Code section 103A.8B.

“*Hazardous substance*” means “hazardous substance” as defined in 567—Chapter 137 and includes petroleum substances not addressed in 567—Chapter 135.

“*Loan*” means an award of assistance with the requirement that the award be repaid, and with term, interest rate, and any other conditions specified as part of the award. A deferred loan is one for which the payment of principal or interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A loan guarantee is a third-party commitment to repay all or a portion of the loan in the event that the borrower defaults on the loan.

“*Political subdivision*” means a city, county, township, or school district.

“*Previously remediated or redeveloped*” means any prior remediation or redevelopment, including development for which an award of tax credits under this chapter has been made.

“*Qualifying investment*” means costs that are directly related to a qualifying redevelopment project and that are incurred after the project has been registered and approved by the board. “Qualifying investment” only includes the purchase price, the cleanup costs, and the redevelopment costs.

“*Qualifying investor*” means an applicant who has been accepted by the department to receive a redevelopment tax credit.

“*Qualifying redevelopment project*” means a brownfield or grayfield site being redeveloped or improved by the property owner. “Qualifying redevelopment project” does not include a previously remediated or redeveloped brownfield or grayfield site.

“*Redevelopment*” means construction or development activities associated with a qualifying redevelopment project that are undertaken either for the purpose of constructing new buildings or improvements at a site where formerly existing buildings have been demolished or for the purpose of rehabilitating, reusing or repurposing existing buildings or improvements. Redevelopment typically includes projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

“*Redevelopment tax credits program*” means the tax credits program administered pursuant to Iowa Code sections 15.293A and 15.293B.

“*Remediation*” includes characterization, risk assessment, removal and cleanup of environmental contaminants located on and adjacent to a brownfield site. Funding awards used for remediation must comply with appropriate Iowa department of natural resources requirements and guidelines.

“*Risk evaluation*” means assessment of risks to human health and environment by way of guidelines established in 567—Chapter 137.

“*Sponsorship*” means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program in which the city or county agrees to offer assistance or guidance to the applicant. Sponsorship is not required if the applicant is a city or county.

“*Sustainable design*” means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants including, but not limited to, measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments. Sustainable design standards are also known as green building standards pursuant to Iowa Code section 103A.8B.

“*Vertical improvement,*” “*improvement*” or “*improved*” means the same as defined in Iowa Code section 15J.2.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 0944C, IAB 8/7/13, effective 9/11/13; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.3(15) Eligible applicants. To be eligible to apply for program assistance, an applicant must meet the following eligibility requirements:

65.3(1) *Site owner.* A person owning a site is an eligible applicant if the site for which assistance is sought meets the definition of a brownfield or grayfield site. The brownfield redevelopment program requires that an applicant has secured a sponsor prior to applying for program assistance. Sponsorship is encouraged but not required for the redevelopment tax credits program for brownfields and grayfields.

65.3(2) *Nonowner of site.* A person who is not an owner of a site is an eligible applicant if the site meets the definition of a brownfield or grayfield site. The brownfield redevelopment program requires that an applicant has secured a sponsor prior to applying for program assistance. Prior to applying for financial assistance under the brownfield redevelopment program, an applicant who is not an owner of a site shall enter into an agreement with the owner of the brownfield site for which financial assistance is sought. The agreement shall at a minimum include:

- a. The total cost for remediating the site.
- b. Agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property. Title transfer is not required when the applicant is the owner of the property and no title transfer occurs.
- c. Agreement that upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition or redevelopment.

65.3(3) *Phased projects ineligible for tax credits.* Tax credits for brownfield and grayfield redevelopment are only available for qualifying redevelopment projects. Because a qualifying redevelopment project does not include a previously remediated or redeveloped site, a project for subsequent redevelopment at the same site for which tax credits have already been awarded is not eligible for additional tax credits on redevelopment at that site. The authority and the council will determine whether a project constitutes subsequent redevelopment at the same site by considering the following factors:

- a. Whether the redevelopment described in multiple proposed projects is planned for a single parcel.
- b. Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.
- c. Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.
- d. Whether a proposed project is the result of the same planning process as another project.
- e. Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.
- f. Whether the development of one proposed project reflects a temporal connection to another proposed project.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 0944C, IAB 8/7/13, effective 9/11/13; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.4(15) Eligible forms of assistance and limitations.

65.4(1) *Financial assistance.* Eligible forms of financial assistance include grants, interest-bearing loans, forgivable loans, loan guarantees, tax credits, and other forms of assistance under the brownfield redevelopment program and the redevelopment tax credits program for brownfields and grayfields established in 2011 Iowa Code Supplement sections 15.292 and 15.293A.

65.4(2) *Other forms of assistance.* The authority may provide information on alternative forms of assistance.

65.4(3) *Limitation on amount.* An applicant shall not receive financial assistance of more than 25 percent of the agreed-upon estimated total cost of remediation, acquisition or redevelopment. This limitation does not apply to assistance provided in the form of tax credits pursuant to subrule 65.11(4).

65.4(4) *Exclusions.* Program funds shall not be used for the remediation of contaminants being addressed under Iowa's leaking underground storage tank (UST) program. However, a site's being addressed under the UST program does not necessarily exclude that site from being addressed under

the Iowa brownfield redevelopment Act if other nonpetroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.5(15) Repayment to economic development authority. Under the brownfield redevelopment program only, upon the subsequent sale of the property by an applicant to a person other than the original owner, the applicant shall repay the authority for financial assistance received by the applicant. The repayment shall be in an amount equal to the sales price less the amount paid to the original owner pursuant to the agreement between the applicant and the original owner. The repayment amount shall not exceed the amount of financial assistance actually disbursed to the applicant by the authority.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.6(15) General procedural overview.

65.6(1) Subject to availability of funds, applications to the brownfield redevelopment program will be accepted, reviewed and scored by economic development authority staff and by the advisory council on an annual basis. Brownfield redevelopment funds will be scored on a competitive basis by the council, which will make recommendations on award amounts to the board.

65.6(2) Subject to availability of funds, applications to the redevelopment tax credits program for brownfields and grayfields will be accepted and reviewed by economic development authority staff and scored by the advisory council on an annual basis. For the fiscal year beginning July 1, 2014, applications must be received by March 1, 2015. For each fiscal year thereafter, applications will be accepted beginning on July 1 and must be received by September 1. Subject to the availability of funding, the authority may set additional application deadlines after September 1 and before the end of a fiscal year.

65.6(3) Applications for all forms of financial assistance will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. Recommendations from the advisory council will be submitted to the board. The board may approve, deny or defer an application.

65.6(4) Application forms for the brownfield redevelopment program and the redevelopment tax credits program for brownfields and grayfields are available upon request from Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Additional information is available on the authority's Internet site at <http://www.iowaeconomicdevelopment.com>.

65.6(5) The authority may provide technical assistance as necessary to applicants. Authority staff may conduct on-site evaluations of proposed activities.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.7(15) Application to the brownfield redevelopment program—agreements.

65.7(1) Every application for assistance shall include evidence of sponsorship and any other information the authority deems necessary in order to process and review the application. An application shall be considered received by the authority only when the authority deems it to be complete. Applications for assistance shall also include the following information:

a. A business plan. The business plan should, at a minimum, include a remediation plan, a project contact/applying agency, a project overview (which would include the background of the project area, goals and objectives of the project, and implementation strategy), and a project/remediation budget.

b. A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.

65.7(2) The authority shall accept and review applications in conjunction with the council and the board. The council shall consider applications in the order complete applications are received and make application recommendations to the board. The council will score applications according to the application review criteria established pursuant to rule 261—65.9(15). The board shall approve or deny applications.

65.7(3) Approved applicants shall enter into an agreement with the authority.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.8(15) Application to the redevelopment tax credits program—registration of projects—agreements.

65.8(1) *System for application, review, registration, and authorization of projects.* The authority will administer a system for application, review, registration, and authorization of projects as described in this subrule and will only issue tax credit certificates pursuant to subrule 65.11(3).

a. The authority will accept and, in conjunction with the council, review applications for tax credits provided in Iowa Code section 15.293A and, with the approval of the council, make tax credit award recommendations regarding the applications to the board.

b. Applications for redevelopment tax credits will only be accepted during the established application period as provided in subrule 65.6(2).

c. Upon review of an application, the authority may register the project with the redevelopment tax credits program. If the authority registers the project, the authority may, in conjunction with the council, make a preliminary determination as to the amount of tax credit for which an award recommendation will be made to the board.

d. After registering the project, the authority will notify the investor of successful registration under the redevelopment tax credits program. The notification may include the amount of tax credit for which an award recommendation will be made to the board. If an award recommendation is included in the notification, such notification will include a statement that the award recommendation is a recommendation only. The amount of tax credit included on a tax credit certificate issued pursuant to this rule shall be contingent upon an award by the board and upon completion of the requirements in this rule.

e. (1) All completed applications will be reviewed and scored, pursuant to subrule 65.8(2), on a competitive basis by the council and the board. In reviewing and scoring applications, the council and the board may consider any factors the council and board deem appropriate for a competitive application process, including but not limited to the financial need, quality, and feasibility of a qualifying redevelopment project.

(2) For purposes of this rule:

1. “*Feasibility*” means the likelihood that the project will obtain the financing necessary to allow for full completion of the project and the likelihood that the proposed redevelopment or improvement that is the subject of the project will be fully completed.

2. “*Financial need*” means the difference between the total costs of the project less the total financing that will be received for the project.

3. “*Quality*” means the merit of the project after considering and evaluating its total characteristics and measuring those characteristics in a uniform, objective manner against the total characteristics of other projects that have applied for the tax credit provided in this chapter during the same established application period.

f. Upon reviewing and scoring all applications that are part of an annual application period, the board may award tax credits provided in this chapter.

g. If the applicant for a tax credit provided in this chapter has also applied to an agency of the federal government or to the authority, the board, or any other agency of state government for additional financial assistance, the authority, the council, and the board will consider the amount of funding to be received from such public sources when making a tax credit award pursuant to this rule.

h. An applicant that is unsuccessful in receiving a tax credit award during an established application period may make additional applications during subsequent application periods. Such applicants must submit a new application and must be competitively reviewed and scored in the same manner as other applicants in that same application period.

65.8(2) Scoring criteria.

a. Each application for tax credits during each established application period will be scored according to criteria set forth in this paragraph. Points will be added together and the resulting score averaged with the scores of applications evaluated by all council members. Scoring criteria include:

- (1) The project's feasibility: 25 points.
- (2) The project's financial need: 25 points.
- (3) The project's quality: 25 points.
- (4) Whether the project was formerly registered under the program but did not receive an award: 25 points.

b. There is no minimum score required for a project to receive a recommendation for funding, but a higher score indicates that the council views a project more favorably. The council's funding recommendation will reflect its overall view of the project in relation to other applying projects.

65.8(3) Required information. An investor applying for a tax credit shall provide the authority with all of the following:

a. Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

b. Information about the financing sources of the investment which are directly related to the qualifying redevelopment project for which the investor is seeking approval for a tax credit, as provided in this chapter.

c. Any other information deemed necessary by the board and the council to review and score the application pursuant to this rule.

65.8(4) Agreement required—recapture of credits. If an investor is awarded a tax credit pursuant to this rule, the authority and the investor shall enter into an agreement concerning the qualifying redevelopment project. If the investor fails to comply with any of the requirements of the agreement, the authority may find the investor in default under the agreement and may revoke all or a portion of the tax credit award. The department of revenue, upon notification by the authority of an event of default, shall seek repayment of the value of any such tax credit already claimed in the same manner as provided in Iowa Code section 15.330, subsection 2.

65.8(5) Project completion. A registered project shall be completed within 30 months of the date the project was registered unless the authority provides additional time to complete the project. A project will not be provided more than 12 months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit pursuant to this chapter.

65.8(6) Audit required.

a. Upon completion of a registered project, an audit of the project, completed by an independent certified public accountant licensed in this state, must be submitted to the authority.

b. Upon review of the audit and verification of the amount of the qualifying investment, the authority will issue a tax credit certificate to the investor stating the amount of tax credit that the investor may claim.

[ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.9(15) Application review criteria. Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed and prioritized based on the following criteria:

1. Whether the project meets the definition of a brownfield site.
2. Whether alternative forms of assistance have been explored and used by the applicant.
3. The level of distress or extent of the problem on the site has been identified.
4. Whether the site is on or proposed to be added to the U.S. Environmental Protection Agency's list of CERCLA sites.
5. The degree to which awards secured from other sources are committed to the subject site.
6. The leveraging of other public and private resources beyond the 75 percent minimum required.
7. Type and terms of assistance requested.
8. Rationale that the project serves a public purpose.
9. The level of economic and physical distress within the project area.

10. Past efforts of the community/owner to resolve the problem.
11. Ability of the applicant to outline the goals and objectives of the project and describe the overall strategy for achieving the goals and objectives.
12. Ancillary off-site development as a result of site remediation.
[ARC 7844B, IAB 6/17/09, effective 7/22/09]

261—65.10(15) Administration of awards.

65.10(1) A contract shall be executed between the recipient and the authority. These rules and applicable state laws and regulations shall be part of the contract.

65.10(2) The recipient must execute and return the contract to the authority within 45 days of transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

65.10(3) Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

65.10(4) Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

65.10(5) Awards may be conditioned upon the authority's receipt and approval of an implementation plan for the funded activity.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

261—65.11(15) Redevelopment tax credit.

65.11(1) Purpose. The purpose of the redevelopment tax credits program is to make tax credits available for a redevelopment project investment. The authority may cooperate with the department of natural resources and local governments in an effort to disseminate information regarding the redevelopment tax credit.

65.11(2) Eligible applicant. An individual, partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual may claim a redevelopment tax credit. Once an applicant is deemed eligible, the applicant shall be considered a qualifying investor for a redevelopment tax credit. A city or county may not apply for a redevelopment tax credit.

65.11(3) Tax credit certificate.

a. Issuance. The authority shall issue a redevelopment tax credit certificate upon completion of the project and submittal of proof of completion by the qualified investor. The tax credit certificate shall contain the qualified investor's name, address, tax identification number, the amount of the credit, the name of the qualifying investor, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

b. Acceptance. The tax credit certificate, unless rescinded by the board, shall be accepted by the Iowa department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and to Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of this rule, for a portion of a taxpayer's equity investment in a qualifying redevelopment project.

c. Transfer. Tax credit certificates issued under this rule may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the Iowa department of revenue, including a statement with the transferee's name, tax identification number, address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the Iowa department of revenue.

d. Replacement certificate. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the Iowa department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate.

e. Claiming a transferred tax credit. A tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration paid or received for the transfer of the tax credit shall not be included or deducted as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.329.

65.11(4) Amount of tax credit.

a. Pro rata share. The qualified investor may claim the amount based upon the pro rata share of the qualified investor's earnings from the partnership, limited liability company, S corporation, estate, or trust. Except as provided in paragraph 65.11(4) "b," any tax credit in excess of the qualified investor's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the qualified investor receives the tax credit.

b. Refundability. A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the following conditions are met:

(1) The taxpayer is an investor making application for tax credits provided in this rule and is an entity organized under Chapter 504 and qualifying under Section 501(c)(3) of the Internal Revenue Code as an organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

(2) The taxpayer establishes during the application process described in this chapter that the requirement in subparagraph 65.11(4) "b" (1) is satisfied. The authority, when issuing a certificate to a taxpayer that meets the requirements in paragraph 65.11(4) "b," will indicate on the certificate that such requirements have been satisfied. A certificate indicating that it is refundable pursuant to paragraph 65.11(4) "b" shall not also be transferred to another taxpayer unless all the requirements of paragraph 65.11(4) "b" have been met.

c. Percentage. The amount of the tax credit shall equal one of the following:

(1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.

(2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).

(3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.

(4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).

d. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 65.11(4) "e."

e. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits issued by the authority shall not exceed \$1 million. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits issued by the authority shall be an amount determined by the board but not in excess of \$5 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the board but not in excess of the amount established pursuant to Iowa Code section 15.119.

65.11(5) Claiming a tax credit. The qualified investor must include one or more tax credit certificates with the qualified investor's tax return. A tax credit certificate shall not be used or included with a return filed for a taxable year beginning prior to the tax year listed on the certificate. The tax credit certificate or certificates included with the qualified investor's tax return shall be issued in the qualified investor's name, expire on or after the last day of the taxable year for which the qualified investor is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the qualified investor's tax return.

65.11(6) Reduction of tax credit.

a. Taxes imposed under Iowa Code section 422.11V, less the credits allowed under Iowa Code sections 422.12, 422.33, 422.60, 432.12L, and moneys and credits imposed under Iowa Code section

533.329 shall be reduced by a redevelopment tax credit allowed under Iowa Code sections 15.291 to 15.294.

b. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the redeveloped property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the credit computed under this rule.

65.11(7) Project completion.

a. An investment shall be deemed to have been made on the date the qualifying redevelopment project is completed. An investment made prior to January 1, 2009, shall not qualify for a tax credit under this rule.

b. A registered project shall be completed within 30 months of the project's approval unless the authority, with the approval of the board, provides additional time to complete the project. A project shall not be provided more than 12 months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit.

c. Failure to comply. If a taxpayer receives a tax credit pursuant to 2011 Iowa Code Supplement section 15.293A, but fails to comply with any of the requirements, the taxpayer loses any right to the tax credit. The Iowa department of revenue shall seek recovery of the value of the credit the qualified investor received.

65.11(8) Tax credit carryover. If the maximum amount of tax credits available has not been issued at the end of the fiscal year, the remaining tax credit amount may be carried over to a subsequent fiscal year or the authority may prorate the remaining credit amount among other eligible applicants.

65.11(9) Authority registration and authorization. The authority shall develop a system for registration and authorization of tax credits. The authority shall control distribution of all tax credits distributed to investors, including developing and maintaining a list of tax credit applicants from year to year to ensure that if the maximum aggregate amount of tax credits is reached in one year, an applicant can be given priority consideration for a tax credit in an ensuing year.

65.11(10) Other financial assistance considerations. If a qualified investor has also applied to the authority, the board, or any other agency of state government for additional financial assistance, the authority, the board, or the agency of state government shall not consider the receipt of a tax credit issued pursuant to this rule when considering the application for additional financial assistance.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

261—65.12(15) Review, approval, and repayment requirements of redevelopment tax credit.

65.12(1) A qualified investor seeking to claim a tax credit pursuant to 2011 Iowa Code Supplement sections 15.293A and 15.293B shall apply to the authority, and applications shall be reviewed by the council as established in 2011 Iowa Code Supplement section 15.294. The council shall recommend to the board the tax credit amount available for each qualifying redevelopment project.

65.12(2) A qualified investor shall provide to the authority, the council and the board all of the following:

a. Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

b. Information about the financing sources of the investment which is directly related to the qualifying redevelopment project for which the taxpayer is seeking approval for a tax credit, as provided in 2011 Iowa Code Supplement section 15.293A.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

These rules are intended to implement 2011 Iowa Code Supplement sections 15.291 to 15.295.

[Filed emergency 8/18/00—published 9/6/00, effective 8/18/00]

[Filed 10/23/00, Notice 9/6/00—published 11/15/00, effective 12/20/00]

[Filed ARC 7844B (Notice ARC 7706B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]

[Filed Emergency ARC 9746B, IAB 9/7/11, effective 8/19/11]

[Filed ARC 0007C (Notice ARC 9747B, IAB 9/7/11), IAB 2/8/12, effective 3/14/12]

[Filed ARC 0944C (Notice ARC 0686C, IAB 4/17/13), IAB 8/7/13, effective 9/11/13]

[Filed ARC 1827C (Notice ARC 1693C, IAB 10/29/14), IAB 1/21/15, effective 2/25/15]

CHAPTER 118
STRATEGIC INFRASTRUCTURE PROGRAM

261—118.1(15) Authority. The authority for adopting rules establishing a strategic infrastructure program is provided in Iowa Code section 15.313 and in Iowa Code section 15.106A.
[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.2(15) Purpose. The purpose of the strategic infrastructure program is to assist projects that develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state, and such projects are not adequately provided by the public or private sectors.
[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.3(15) Definitions.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Council*” means the Iowa innovation council established pursuant to Iowa Code section 15.117A, or any panel or committee composed of members of the council.

“*Director*” means the director of the economic development authority.

“*Eligible project*” means a project meeting the requirements of rule 261—118.5(15).

“*Financial assistance*” means the same as defined in Iowa Code section 15.102.

“*Program*” means the strategic infrastructure program established in this chapter.

“*Strategic infrastructure*” means projects that develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state, and such projects are not adequately provided by the public or private sectors. Such projects may include vertical improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets, provided that each project is intended to attract additional public or private sector investment and result in broad-based prosperity in this state.

“*Vertical improvement*” means the same as defined in Iowa Code section 15J.2.

[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.4(15) Program description, disbursement of funds, and contract administration.

118.4(1) Program description. The program established in this chapter provides financial assistance to certain strategic infrastructure projects. The board, after considering the recommendations made by the council, will determine which projects to fund and how much should be awarded to each project. The director and staff of the authority will collect and process applications from applicants, advise the council and the board as to the available program funding, and help evaluate whether a proposed project meets the requirements of the program. The council will review applications meeting the program requirements, score them according to the criteria described in rule 261—118.7(15), and make recommendations to the board as to the completeness of applications and as to which projects to fund, how much to award to each project, and the type of financial assistance to be provided. While the council’s recommendations are advisory and are not binding upon the board, the board will not take final action on an award unless the council has first considered the project, scored it, and made a recommendation. The board may approve an award for a project, decline to award a project, or refer a project back to the council for further review and recommendation.

118.4(2) Disbursement of funds. The authority will disburse funds to a project only after a complete application has been received, an award has been recommended by the council and approved by the board, a contract has been executed between the applicant and the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the contract will be on a reimbursement basis for expenses incurred by the applicant as provided under the contract.

118.4(3) *Contract administration.* The authority will prepare a contract for each project receiving an award from the board. The contract will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this chapter. Substantial amendments to a contract must be approved by the board. The board may refer substantial amendments to the council for review and recommendation. Substantial amendments include the amount of financial assistance, the length of the contract, whether to terminate the contract, and the terms of a settlement following an event of default. Other changes or amendments to the contract may be negotiated by the authority with the approval of the director.

[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.5(15) Program eligibility and application requirements. To be eligible for financial assistance under the program, an applicant shall meet all of the following requirements:

118.5(1) The applicant must describe in detail the nature, scope, design, and goals of the project, including the relationships of the entities and individuals involved, and in addition, the applicant must explain how the project fulfills the requirements of each of the subrules in this rule. The council and the board will use the description for purposes of scoring the project pursuant to rule 261—118.7(15).

118.5(2) The applicant must propose to develop a commonly utilized asset that either benefits one or more private sector entities or that creates necessary physical infrastructure in the state.

118.5(3) The applicant must propose to develop a project that is not adequately provided by the public or private sectors.

118.5(4) The applicant must propose a project that includes vertical infrastructure improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets and must describe how and to what extent the project will attract additional public or private sector investment and how the project will result in broad-based prosperity in the state.

118.5(5) The applicant must describe the project's proposed financing structure, including the sources of funds and the proposed uses of the funds, and must propose the manner in which any financial assistance received under the program will be used.

[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.6(15) Application submittal and review process.

118.6(1) The authority will develop a standardized application process and make information on applying available to applicants with eligible projects. To apply for assistance under the program, an applicant shall submit an application to the authority. Applications may be sent to the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available by contacting the authority at that address. Other information may also be found on the authority's Internet site at www.iowaeconomicdevelopment.com.

118.6(2) The board has final decision-making authority on requests for financial assistance for this program. Applications will be accepted and processed by authority staff and reviewed and scored by the council. Applications will be reviewed in the order received by the authority. The authority and the board will consider applications on a continuing basis. The board will take final action on all applications for financial assistance; however, the authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds. The council will score applications according to the criteria specified in rule 261—118.7(15). There is no minimum score required for funding under the program; however, a lower score indicates that the council views the project less favorably than a project with a higher score.

[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.7(15) Application scoring criteria. When applications for financial assistance under the program are reviewed, the criteria below will be considered and the application scored as described. When scoring the application according to each of the criteria below, to the extent that a proposed project involves multiple public and private sector entities, for-profit and nonprofit organizations, and economic development and educational institutions, the council will review such partnerships as

indicating that a commonly utilized asset is being proposed and therefore may award more points under each criterion. The criteria under which each application will be scored are:

118.7(1) The overall quality of the project, especially as reflected in the description and explanation submitted pursuant to subrule 118.5(1): 20 points.

For purposes of this subrule, the council will consider a project's estimated economic impact and the extent to which it contributes to the overall quality of the project. The council will also consider the structure of the proposed project and the nature of the partnerships proposed to be formed as part of the proposed project.

118.7(2) The extent to which the commonly utilized asset proposed by the project benefits one or more private sector entities and the extent to which the commonly utilized asset creates necessary physical infrastructure in the state: 20 points.

For purposes of this subrule, more points will be awarded to projects demonstrating greater benefits or benefits to more entities and to projects demonstrating more critical necessary physical infrastructure.

118.7(3) The extent to which the proposed project provides benefits that are not adequately provided by the public or private sectors: 20 points.

118.7(4) The importance of the vertical infrastructure improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets that are proposed, the extent to which the proposed project will attract additional public or private sector investment, and the likelihood that the project will result in broad-based prosperity in the state: 20 points.

118.7(5) The sufficiency of the proposed project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds: 20 points.

For purposes of this subrule, the council will consider a proposed project's overall financing gap and the total amount of funds leveraged from other sources.

[ARC 1825C, IAB 1/21/15, effective 2/25/15]

261—118.8(15) Notice of award and reporting.

118.8(1) *Notice of award.* Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award.

118.8(2) *Reporting.* An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

[ARC 1825C, IAB 1/21/15, effective 2/25/15]

These rules are intended to implement Iowa Code section 15.313.

[Filed ARC 1825C (Notice ARC 1691C, IAB 10/29/14), IAB 1/21/15, effective 2/25/15]

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CHAPTER 58

NURSING FACILITIES

[Prior to 7/15/87, Health Department[470] Ch 58]

481—58.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicates those standards are mandatory. The use of the words “should” and “could” indicates those standards are recommended.

“*Accommodation*” means the provision of lodging, including sleeping, dining, and living areas.

“*Administrator*” means a person licensed pursuant to Iowa Code chapter 147 who administers, manages, supervises, and is in general administrative charge of a nursing facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

“*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.

“*Basement*” means that part of a building where the finish floor is more than 30 inches below the finish grade.

“*Board*” means the regular provision of meals.

“*Chairfast*” means capable of maintaining a sitting position but lacking the capacity of bearing own weight, even with the aid of a mechanical device or another individual.

“*Communicable disease*” means a disease caused by the presence of viruses or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

“*Department*” means the state department of inspections and appeals.

“*Distinct part*” means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

“*Medication*” means any drug including over-the-counter substances ordered and administered under the direction of the physician.

“*Nonambulatory*” means the condition of a person who immediately and without aid of another is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“*Nourishing snack*” is defined as a verbal offering of items, single or in combination, from the basic food groups. Adequacy of the “nourishing snack” will be determined both by resident interviews and by evaluation of the overall nutritional status of residents in the facility.

“*Person directed care environment*” means the provision of care and services provided in a facility that promotes decision making and choices by the resident, enhances the primary caregiver’s capacity to respond to each resident’s needs, and promotes a homelike environment. Examples of a person directed care environment include, but are not limited to, the Green House concept, the Eden alternative, service houses and neighborhoods.

“*Personal care*” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are assistance in getting in and out of bed, assistance with personal hygiene and bathing, assistance with dressing, meal assistance, and supervision over medications which can be self-administered.

“*Potentially hazardous food*” means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of clostridium botulinum, or in raw shell eggs, the growth of salmonella enteritidis. Potentially hazardous food includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth of bacteria.

“*Primary care provider*” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program of care” means all services being provided for a resident in a health care facility.

“Qualified intellectual disabilities professional” means a psychologist, physician, 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.

“Qualified nurse” means a registered nurse or a licensed practical nurse, as defined in Iowa Code chapter 152.

“Rate” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

“Responsible party” means the person who signs or cosigns the admission agreement required in 481—58.13(135C) or the resident’s guardian or conservator if one has been appointed. In the event that a resident does not have a guardian, conservator or other person signing the admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

“Restraints” means any chemical, manual method or physical or mechanical device, material, or equipment attached to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body.

“Substantial evening meal” is defined as an offering of three or more menu items at one time, one of which includes a high protein such as meat, fish, eggs or cheese. The meal would represent no less than 20 percent of the day’s total nutritional requirements.

[ARC 0766C, IAB 5/29/13, effective 7/3/13; ARC 1398C, IAB 4/2/14, effective 5/7/14; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—58.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual nursing facility. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

58.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing on a form provided by the department;
- b. Cite the rule or rules from which a variance is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

58.2(2) Upon receipt of a request for variance, the director of inspections and appeals will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
- b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
- c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d. Consult with the applicant if additional information is required.

58.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

481—58.3(135C) Application for licensure.

58.3(1) Initial application and licensing. In order to obtain an initial nursing facility license, for a nursing facility which is currently licensed, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 58 and 61. Applicable exceptions found in rule 481—61.2(135C) shall apply based on the construction date of the facility.

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

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

d. Submit a floor plan of each floor of the nursing facility, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door location;

e. Submit a photograph of the front and side elevation of the nursing facility;

f. Submit the statutory fee for a nursing facility license;

g. Meet the requirements of a nursing facility for which licensure application is made;

h. Comply with all other local statutes and ordinances in existence at the time of licensure;

i. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

58.3(2) In order to obtain an initial nursing facility license for a facility not currently licensed as a nursing facility, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 58 and 61. Exceptions noted in 481—subrule 61.1(2) shall not apply;

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

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

d. Submit a floor plan of each floor of the nursing facility, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the nursing facility;

f. Submit the statutory fee for a nursing facility license;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

58.3(3) *Renewal application.* In order to obtain a renewal of the nursing facility license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of nursing facility license;

b. Submit the statutory license fee for a nursing facility with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the résumé to reflect any changes in the resident care program or other services.

58.3(4) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

481—58.4(135C) General requirements.

58.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

58.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

58.4(3) The posted license shall accurately reflect the current status of the nursing facility. (III)

58.4(4) Licenses expire one year after the date of issuance or as indicated on the license.

58.4(5) No nursing facility shall be licensed for more beds than have been approved by the health facilities construction review committee.

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. (III)

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 below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

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

58.5(3) Thirty days before addition, alteration, or new construction is begun in the nursing facility or on the premises; (III)

58.5(4) Thirty days in advance of closure of the nursing facility; (III)

58.5(5) Within two weeks of any change in administrator; (III)

58.5(6) When any change in the category of license is sought; (III)

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

- a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)
- b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)
- c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's 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.

481—58.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—58.7(135C) Licenses for distinct parts.

58.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

58.7(2) The following requirements shall be met for a separate licensing of a distinct part:

- a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)
- b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;
- c. A distinct part must be operationally and financially feasible;
- d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)
- e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—58.8(135C) Administrator.

58.8(1) Each nursing facility shall have one person in charge, duly licensed as a nursing home administrator or acting in a provisional capacity. (III)

58.8(2) A licensed administrator may act as an administrator for not more than two nursing facilities.

- a. The distance between the two facilities shall be no greater than 50 miles. (II)
- b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)
- c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

58.8(3) The licensee may be the licensed nursing home administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

58.8(4) A provisional administrator may be appointed on a temporary basis by the nursing facility licensee to assume the administrative duties when the facility, through no fault of its own, has lost its administrator and has been unable to replace the administrator provided that no facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 12 months in any 12-month period and further provided that:

- a. The department has been notified prior to the date of the administrator's appointment; (III)
- b. The board of examiners for nursing home administrators has approved the administrator's appointment and has confirmed such appointment in writing to the department. (III)

58.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. The administrator shall not be absent from the facility for more than 3 months without approval of the department. (III)

The person designated shall:

- a. Be knowledgeable of the operation of the facility; (III)
- b. Have access to records concerned with the operation of the facility; (III)
- c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
- d. Be at least 21 years of age; (III)
- e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)
- f. Have had training to carry out assignments and take care of emergencies and sudden illness of residents. (III)

58.8(6) A licensed administrator in charge of two facilities shall employ an individual designated as a full-time assistant administrator for each facility. (III)

58.8(7) An administrator of only one facility shall be considered as a full-time employee. Full-time employment is defined as 40 hours per week. (III)

[ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.9(135C) Administration.

58.9(1) The licensee shall:

- a. Assume the responsibility for the overall operation of the nursing facility; (III)
- b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)
- c. Establish written policies, which shall be available for review, for the operation of the nursing facility. (III)

58.9(2) The administrator shall:

- a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)
- b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)
- c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
- d. Make available the nursing facility payroll records for departmental review as needed; (III)
- e. Be required to maintain a staffing pattern of all departments. These records must be maintained for six months and are to be made available for departmental review. (III)

481—58.10(135C) General policies.

58.10(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

58.10(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

58.10(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

- a. Employees shall have a physical examination before employment. (I, II, III)
- b. Employees shall have a physical examination at least every four years. (I, II, III)
- c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

58.10(4) Health certificates for all employees shall be available for review. (III)

58.10(5) Rescinded IAB 10/19/88, effective 11/23/88.

58.10(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

58.10(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

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, U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at <http://www.cdc.gov/ncidod/dhqp/index.html>.

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. (III)

a. The committee shall annually review and revise the infection control policies and procedures to monitor effectiveness and suggest improvement. (III)

b. The committee shall meet at least quarterly, submit reports to the administrator, and maintain minutes in sufficient detail to document its proceedings and actions. (III)

c. The committee shall monitor the health aspect and the environment of the facility. (III)

58.10(10) There shall be written policies for resident care programs and services as outlined in these rules. (III)

58.10(11) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—58.11(135C) Personnel.

58.11(1) General qualifications.

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a nursing facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a nursing facility. (II)

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

- (1) Which is transmissible through required workplace contact, (I, II, III)
- (2) Which presents a significant risk of infecting others, (I, II, III)
- (3) Which presents a substantial possibility of harming others, and (I, II, III)
- (4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

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

d. Reserved.

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

k. 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 approved by the department of inspections and appeals. 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.

58.11(2) Nursing supervision and staffing.

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

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

c. 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. (III)

d. 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. 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. 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. 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) This shall be an on-site consultation and documentation shall be made of the visit. (III)

(2) The registered nurse-consultant shall have responsibilities clearly outlined in a written agreement with the facility. (III)

(3) Consultation shall include but not be limited to the following: counseling the health service supervisor in the management of the health services; (III) reviewing and evaluating the health services in determining that the needs of the residents are met; (II, III) conducting a review of medications at least monthly if the facility does not employ a registered nurse part-time. (II, III)

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

l. 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. Physician's orders shall be implemented by qualified personnel. (II, III)

58.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—58.12(135C) Admission, transfer, and discharge.

58.12(1) *General admission policies.*

a. No resident shall be admitted or retained in a nursing facility who is in need of greater services than the facility can provide. (II, III)

b. No nursing facility shall admit more residents than the number of beds for which it is licensed, except guest rooms for visitors. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a nursing facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal representative. (III)

f. The admission of a resident shall not grant the nursing facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the facility as required by these rules. (III)

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. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the nursing facility belonging to or due a resident, expendable for the resident's account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity.

l. Within 30 days of a resident's admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident's personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident's name along with the names of the resident's spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services.

If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care or to the admission of an individual to the Iowa Veterans Home. (II, III)

58.12(2) Discharge or transfer.

a. Prior notification shall be made to the resident, as well as the resident's next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the nursing facility for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such a discharge or transfer. (II, III)

d. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 58.15(2) "k" of these rules will accompany the resident. (II, III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)

481—58.13(135C) Contracts. Each contract shall:

58.13(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

58.13(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. Furthermore, the contract shall: (III)

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in 58.13(3); (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

58.13(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on the nursing assessment at the time of admission, which is determined in consultation with the administrator; (III)

58.13(4) Include the total fee to be charged initially to the specific resident; (III)

58.13(5) State the conditions whereby the facility may make adjustments to the facility's overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

58.13(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

58.13(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party.

a. The facility shall ask the resident or responsible party if the resident wants the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

58.13(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

58.13(9) State the conditions of voluntary discharge or transfer; (III)

58.13(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

58.13(11) Each party shall receive a copy of the signed contract. (III)

481—58.14(135C) Medical services.

58.14(1) Each resident in a nursing facility shall designate a licensed physician who may be called when needed. Professional management of a resident's care shall be the responsibility of the hospice program when:

a. The resident is terminally ill, and

b. The resident has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, and

c. The facility and the hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of hospice care.

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, shall be a part of the resident's record. (III)

58.14(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

58.14(4) Rescinded, effective 7/14/82.

58.14(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (I, II, III)

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

58.14(7) Residents shall be admitted to a nursing facility only on a written order signed by a physician certifying that the individual being admitted requires no greater degree of nursing care than the facility is licensed to provide. (III)

58.14(8) Physician delegation of tasks. Each resident, including private pay residents, shall be visited by or shall visit the resident's physician at least twice a year. The year period shall be measured from the date of admission and is not to include preadmission physicals.

a. For a skilled nursing patient, the resident must be seen by a physician for the initial comprehensive visit. Additional visits are required at least once every 30 days for 90 days after admission and at least once every 60 days thereafter. After the initial comprehensive visit, alternate required visits may be performed by an advanced registered nurse practitioner, clinical nurse specialist or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

b. Notwithstanding the provisions of 42 CFR 483.40, any required physician task or visit in a nursing facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

c. In dually certified skilled nursing/nursing facilities, the advanced registered nurse practitioner, clinical nurse specialist, and physician assistant must follow the skilled nursing facility requirements for services for skilled nursing facility stays. For nursing facility stays in skilled nursing/nursing facilities, any required physician task or visit may be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant working in collaboration with the physician. (III)

d. Nurse practitioners, clinical nurse specialists, and physician assistants may perform other tasks that are not reserved to the physician such as visits outside the normal schedule needed to address new symptoms or other changes in medical status. (III)

Table 1: Authority for non-physician practitioners to perform visits, sign orders, and sign certifications/recertifications when permitted by state law*

	Initial Comprehensive Visit/Orders	Other Required Visits ¹	Other Medically Necessary Visits and Orders ²	Certification/Recertification
Skilled Nursing Facilities				
Physician assistant, nurse practitioner and clinical nurse specialist employed by the facility	May not perform/May not sign	May perform alternate visits	May perform and sign	May not sign
Physician assistant, nurse practitioner and clinical nurse specialist not a facility employee	May not perform/May not sign	May perform alternate visits	May perform and sign	May sign subject to state requirements

	Initial Comprehensive Visit/Orders	Other Required Visits ¹	Other Medically Necessary Visits and Orders ²	Certification/Recertification
Nursing Facilities				
Nurse practitioner, clinical nurse specialist, and physician assistant employed by the facility	May not perform/May not sign	May not perform	May perform and sign	Not applicable ⁺
Nurse practitioner, clinical nurse specialist, and physician assistant not a facility employee	May perform/May sign	May perform	May perform and sign	Not applicable ⁺

*As permitted by state law governing the scope and practice of nurse practitioners, clinical nurse specialists, and physician assistants.

¹ Other required visits include the skilled nursing resident monthly visits that may be alternated between physician and advanced registered nurse practitioners, clinical nurse specialists, or physician assistants after the initial comprehensive visit is completed.

² Medically necessary visits may be performed prior to the initial comprehensive visit.

⁺ This requirement relates specifically to coverage of Part A Medicare stays, which can take place only in a Medicare-certified skilled nursing facility.

[ARC 1048C, IAB 10/2/13, effective 11/6/13; ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.15(135C) Records.

58.15(1) Resident admission record. The licensee shall keep a permanent record on all residents admitted to a nursing facility with all entries current, dated, and signed. This shall be a part of the resident clinical record. (III) The admission record form shall include:

- a. Name and previous address of resident; (III)
- b. Birth date, sex, and marital status of resident; (III)
- c. Church affiliation; (III)
- d. Physician's name, telephone number, and address; (III)
- e. Dentist's name, telephone number, and address; (III)
- f. Name, address, and telephone number of next of kin or legal representative; (III)
- g. Name, address, and telephone number of person to be notified in case of emergency; (III)
- h. Mortician's name, telephone number, and address; (III)
- i. Pharmacist's name, telephone number, and address. (III)

58.15(2) Resident clinical record. There shall be a separate clinical record for each resident admitted to a nursing facility with all entries current, dated, and signed. (III) The resident clinical record shall include:

- a. Admission record; (III)
- b. Admission diagnosis; (III)
- c. Physical examination: The record of the admission physical examination and 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. (III)
- d. Physician's certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)
- e. Physician's orders for medication, treatment, and diet in writing and signed by the physician quarterly; (III)
- f. Progress notes.
 - (1) Physician shall enter a progress note at the time of each visit; (III)

(2) Other professionals, i.e., dentists, social workers, physical therapists, pharmacists, and others shall enter a progress note at the time of each visit; (III)

g. All laboratory, X-ray, and other diagnostic reports; (III)

h. Nurse's record including:

(1) Admitting notes including time and mode of transportation; room assignment; disposition of valuables; symptoms and complaints; general condition; vital signs; and weight; (II, III)

(2) Routine notes including physician's visits; telephone calls to and from the physician; unusual incidents and accidents; change of condition; social interaction; and P.R.N. medications administered including time and reason administered, and resident's reaction; (II, III)

(3) Discharge or transfer notes including time and mode of transportation; resident's general condition; instructions given to resident or legal representative; list of medications and disposition; and completion of transfer form for continuity of care; (II, III)

(4) Death notes including notification of physician and family to include time, disposition of body, resident's personal possessions and medications; and complete and accurate notes of resident's vital signs and symptoms preceding death; (III)

i. Medication record.

(1) An accurate record of all medications administered shall be maintained for each resident. (II, III)

(2) Schedule II drug records shall be kept in accordance with state and federal laws; (II, III)

j. Death record. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)

k. Transfer form.

(1) The transfer form shall include identification data from the admission record, name of transferring institution, name of receiving institution, and date of transfer; (III)

(2) The nurse's report shall include resident attitudes, behavior, interests, functional abilities (activities of daily living), unusual treatments, nursing care, problems, likes and dislikes, nutrition, current medications (when last given), and condition on transfer; (III)

(3) The physician's report shall include reason for transfer, medications, treatment, diet, activities, significant laboratory and X-ray findings, and diagnosis and prognosis; (III)

l. Consultation reports shall indicate services rendered by allied health professionals in the facility or in health-centered agencies such as dentists, physical therapists, podiatrists, oculists, and others. (III)

58.15(3) Resident personal record. Personal records may be kept as a separate file by the facility.

a. Personal records may include factual information regarding personal statistics, family and responsible relative resources, financial status, and other confidential information.

b. Personal records shall be accessible to professional staff involved in planning for services to meet the needs of the resident. (III)

c. When the resident's records are closed, the information shall become a part of the final record. (III)

d. Personal records shall include a duplicate copy of the contract(s). (III)

58.15(4) Incident record.

a. Each nursing facility shall maintain an incident record report and shall have available incident report forms. (III)

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

c. The person in charge at the time of the incident shall prepare and sign the report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

58.15(5) Retention of records.

- a. Records shall be retained in the facility for five years following termination of services. (III)
- b. Records shall be retained within the facility upon change of ownership. (III)
- c. Rescinded, effective 7/14/82.
- d. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

58.15(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

58.15(7) Personnel record.

- a. An employment record shall be kept for each employee, consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, criminal history and dependent adult abuse background checks, and date and reason for discharge or resignation. (III)
- b. The personnel records shall be made available for review upon request by the department. (III)

481—58.16(135C) Resident care and personal services.

58.16(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

58.16(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

58.16(3) Residents shall have clean clothing as needed to present a neat appearance, to be free of odors, and to be comfortable. Clothing shall be based on resident choice and shall be appropriate to residents' activities and to the weather. (III)

58.16(4) Rescinded, effective 7/14/82.

58.16(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

58.16(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

58.16(7) Rescinded, effective 7/14/82.

58.16(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

58.16(9) Except for those who request differently, residents who are not bedfast shall be fully dressed each day to maintain self-esteem and promote the residents' normal lifestyles. (III)

58.16(10) Residents shall receive a bath of their choice, based on the facility's accommodations, as needed to maintain proper hygiene. (II, III)

481—58.17 Rescinded, effective 7/14/82.

481—58.18(135C) Nursing care.

58.18(1) Individual health care plans shall be based on resident treatment decisions, the nature of the illness or disability, treatment, and care prescribed. Goals shall be developed by each discipline providing service, treatment, and care. These plans shall be in writing, revised as necessary, and kept current. They shall be made available to all those rendering the services and for review by the department. (III)

58.18(2) Rescinded IAB 4/2/14, effective 5/7/14.

58.18(3) The facility shall provide resident and family education as an integral part of restorative and supportive care. (III)

58.18(4) The facility shall provide prompt response from qualified staff for the resident's use of the nurse call system. (II, III) (Prompt response being considered as no longer than 15 minutes.)

[ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.19(135C) Required nursing services for residents. The resident shall receive and the facility shall provide, as appropriate, the following required nursing services under the 24-hour direction of qualified nurses with ancillary coverage as set forth in these rules:

58.19(1) Activities of daily living.

- a. Bathing; (II, III)
- b. Daily oral hygiene (denture care); (II, III)
- c. Routine shampoo; (II, III)
- d. Nail care; (III)
- e. Shaving; (III)
- f. Daily care and application of prostheses (glasses, hearing aids, glass eyes, limb prosthetics, braces, or other assistive devices); (II, III)
 - g. Ambulation with equipment if applicable, or transferring, or positioning; (I, II, III)
 - h. Daily routine range of motion; (II, III)
 - i. Mobility (assistance with wheelchair, mechanical lift, or other means of locomotion); (I, II, III)
 - j. Elimination.
 - (1) Assistance to and from the bathroom and perineal care; (II, III)
 - (2) Bedpan assistance; (II, III)
 - (3) Care for incontinent residents; (II, III)
 - (4) Bowel and bladder training programs including in-dwelling catheter care (i.e., insertion and irrigation), enema and suppository administration, and monitoring and recording of intake and output, including solid waste; (I, II, III)
 - k. Colostomy care (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II, III)
 - l. Ileostomy care (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II, III)
 - m. All linens necessary; (III)
 - n. Nutrition and meal service.
 - (1) Regular, therapeutic, modified diets, and snacks; (I, II, III)
 - (2) Mealtime preparation of resident; (II, III)
 - (3) Assistance to and from meals; (II, III)
 - (4) In-room meal service or tray service; (II, III)
 - (5) Assistance with food preparation and meal assistance including total assistance if needed; (II, III)
 - (6) Assistance with adaptive devices; (II, III)
 - (7) Enteral nutrition (to be performed by a registered nurse or licensed practical nurse only); (I, II, III)
 - o. Promote initiation of self-care for elements of resident care; (II, III)
 - p. Oral suctioning (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse). (I, II)

58.19(2) Medication and treatment.

- a. Administration of all medications as ordered by the physician including oral, instillations, topical, injectable (to be injected by a registered nurse or licensed practical nurse only); (I, II)
- b. Provision of the appropriate care and treatment of wounds, including pressure sores, to promote healing, prevent infection, and prevent new sores from developing; (I, II)
- c. Blood glucose monitoring; (I, II)
- d. Vital signs, blood pressure, and weights; (I, II)
- e. Ambulation and transfer; (II, III)
- f. Provision of restraints; (I, II)
- g. Administration of oxygen (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II)
- h. Provision of all treatments; (I, II, III)

- i.* Provision of emergency medical care, including arranging for transportation, in accordance with written policies and procedures of the facility; (I, II, III)
- j.* Provision of accurate assessment and timely intervention for all residents who have an onset of adverse symptoms which represent a change in mental, emotional, or physical condition. (I, II, III)
[ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.20(135C) Duties of health service supervisor. Every nursing facility shall have a health service supervisor who shall:

- 58.20(1)** Direct the implementation of the physician's orders; (I, II)
- 58.20(2)** Plan for and direct the nursing care, services, treatments, procedures, and other services in order that each resident's needs and choices, where practicable, are met; (II, III)
- 58.20(3)** Review the health care needs and choices, where practicable, of each resident admitted to the facility and assist the attending physician in planning for the resident's care; (II, III)
- 58.20(4)** Develop and implement a written health care plan in cooperation with, to the extent practicable, the resident, the resident's family or the resident's legal representative, and others in accordance with instructions of the attending physician as follows:
 - a.* The written health care plan, based on the assessment and reassessment of the resident's health needs and choices, where practicable, is personalized for the individual resident and indicates care to be given, goals to be accomplished, and methods, approaches, and modifications necessary to achieve best results; (III)
 - b.* The health service supervisor is responsible for preparing, reviewing, supervising the implementation, and revising the written health care plan; (III)
 - c.* The health care plan is readily available for use by all personnel caring for the resident; (III)
- 58.20(5)** Initiate preventative and restorative nursing procedures for each resident so as to achieve and maintain the highest possible degree of function, self-care, and independence based on resident choice, where practicable; (II, III)
- 58.20(6)** Supervise health services personnel to ensure they perform the following restorative measures in their daily care of residents:
 - a.* Maintaining good bodily alignment and proper positioning; (II, III)
 - b.* Making every effort to keep the resident active except when contraindicated by physician's orders, and encouraging residents to achieve independence in activities of daily living by teaching self-care, transfer, and ambulation activities; (III)
 - c.* Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests as necessary; (III)
 - d.* Assisting residents to carry out prescribed therapy exercises between visits of the therapist; (III)
 - e.* Assisting residents with routine range of motion exercises; (III)
- 58.20(7)** Plan and conduct nursing staff orientation and in-service programs and provide for training of nurse's aides; (III)
- 58.20(8)** Plan with the resident and the resident's physician and family and health-related agencies for the care of the resident upon discharge; (III)
- 58.20(9)** Designate a responsible person to be in charge during absences; (III)
- 58.20(10)** Be responsible for all assignments and work schedules for all health services personnel to ensure that the health needs of the residents are met; (III)
- 58.20(11)** Ensure that all nurse's notes are descriptive of the care rendered including the resident's response; (III)
- 58.20(12)** Visit each resident routinely to be knowledgeable of the resident's current condition; (III)
- 58.20(13)** Evaluate in writing the performance of each individual on the health care staff on at least an annual basis. This evaluation shall be available for review in the facility to the department; (III)
- 58.20(14)** Keep the administrator informed of the resident's status; (III)
- 58.20(15)** Teach and coordinate rehabilitative health care including activities of daily living, promotion and maintenance of optimal physical and mental functioning; (III)

58.20(16) Supervise serving of meals to ensure that individuals unable to assist themselves are promptly fed and that special eating adaptive devices are available as needed; (II, III)

58.20(17) Make available a nursing procedure manual which shall include all procedures practiced in the facility; (III)

58.20(18) Participate with the administrator in the formulation of written policies and procedures for resident services; (III)

58.20(19) The person in charge shall immediately notify the family of any accident, injury, or adverse change in the resident's condition requiring physician's notification. (III)

481—58.21(135C) Drugs, storage, and handling.

58.21(1) Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

a. A cabinet with a lock, convenient to nursing service, shall be provided and used for storage of all drugs, solutions, and prescriptions; (III)

b. The drug storage cabinet shall be kept locked when not in use; (III)

c. The medication cabinet key shall be in the possession of the person directly responsible for issuing medications; (II, III)

d. Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)

58.21(2) Drugs for external use shall be stored separately from drugs for internal use. (III)

58.21(3) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items. A method for locking these medications shall be provided. (III)

58.21(4) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

58.21(5) All flammable materials shall be specially stored and handled in accordance with applicable local and state fire regulations. (II)

58.21(6) A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

c. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved nurse aide course, nurse aide training and testing program or nurse aide competency examination.

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

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

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) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

(4) Successfully complete a department-approved nurse aide competency evaluation.

e. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph “*c*” of this subrule do not apply to this individual.

58.21(7) Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day that they are administered, (II) unless the unit dose system is used.

58.21(8) An accurate written record of medications administered shall be made by the individual administering the medication. (III)

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. (III)

58.21(10) Any unusual resident reaction shall be reported to the physician at once. (II)

58.21(11) A policy shall be established by the facility in conjunction with a licensed pharmacist to govern the distribution of prescribed medications to residents who are on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 58.21(14) “*a*,” non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident’s name, the facility, the medication, its strength, dose, and time of administration.

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.

c. Medication distributed as above may be issued only by a nurse responsible for administering medication. (I, II, III)

58.21(12) Emergency medications. A nursing facility shall provide emergency medications pursuant to the following requirements: (III)

a. Prescription drugs as well as nonprescription items must be prescribed or approved by the physician, in consultation with the pharmacist, who provides emergency service to the facility; (III)

b. The emergency medications shall be stored in an accessible place; (III)

c. A list of the emergency medications and quantities of each item shall be maintained by the facility; (III)

d. The container holding the emergency medications shall be closed with a seal which may be broken when drugs are required in an emergency or for inspection; (III)

e. Any item removed from the emergency medications shall be replaced within 48 hours; (III)

f. A permanent record shall be kept of each time the emergency medications are used; (III)

g. The emergency medications shall be inspected by a pharmacist at least once every three months to determine the stability of items. (III)

58.21(13) Drug handling.

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. (III)

b. Inspection of drug storage condition shall be made by the health service supervisor and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the nurse and pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician’s order, and drugs improperly stored. (III)

c. If the facility permits licensed nurses to dilute or reconstitute drugs at the nursing station, distinctive supplementary labels shall be available for the purpose. The notation on the label shall be so made as to be indelible. (III)

d. Dilution and reconstitution of drugs and their labeling shall be done by the pharmacist whenever possible. If not possible, the following shall be carried out only by the licensed nurse:

(1) Specific directions for dilution or reconstitution and expiration date should accompany the drug; (III)

(2) A distinctive supplementary label shall be affixed to the drug container when diluted or reconstituted by the nurse for other than immediate use. (III) The label shall bear the following: resident's name, dosage and strength per unit/volume, nurse's name, expiration date, and date and time of dilution. (III)

58.21(14) Drug safeguards.

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. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels, or medication samples shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. There shall be no medications or any solution in unlabeled containers. (II, III)

d. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

e. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label of a drug container. (II, III)

f. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

g. Unused prescription drugs prescribed for residents who are deceased shall be returned to the supplying pharmacist. (III)

h. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

i. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

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)

l. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The physician, in consultation with the pharmacist serving the home, shall institute policies and provide procedures for review and endorsement of stop orders on drugs. This policy shall be conveniently located for personnel administering medications. (II, III)

m. No resident shall be allowed to keep possession of any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

n. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)

o. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

p. A qualified nurse shall:

(1) Establish a medication schedule system which identifies the time and dosage of each medication prescribed for each resident, is based on the resident's desired routine, and is approved by the resident's physician. (II, III)

(2) Establish a medication record containing the information specified above needed to monitor each resident's drug regimen. (II, III)

q. Telephone orders shall be taken by a qualified nurse. Orders shall be written into the resident's record and signed by the person receiving the order. Telephone orders shall be submitted to the physician for signature within 48 hours. (III)

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)

s. In a nursing facility with a pharmacy or drug supply, service shall be under the personal supervision of a pharmacist licensed to practice in the state of Iowa. (III)

58.21(15) Drug administration.

a. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA). In the case of a resident who has been certified by the resident's physician or physician assistant (PA) as capable of taking the resident's own insulin, the resident may inject the resident's own insulin. (II)

b. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

c. The health service supervisor shall be responsible for the supervision and direction of all personnel administering medications. (II)

[ARC 1050C, IAB 10/2/13, effective 11/6/13]

481—58.22(135C) Rehabilitative services. Rehabilitative services shall be provided to maintain function or improve the resident's ability to carry out the activities of daily living.

58.22(1) Physical therapy services.

a. Each facility shall have a written agreement with a licensed physical therapist to provide physical therapy services. (III)

b. Physical therapy shall be rendered only by a physical therapist licensed to practice in the state of Iowa. All personnel assisting with the physical therapy of residents must be under the direction of a licensed physical therapist. (II, III)

c. The licensed physical therapist shall:

(1) Evaluate the resident and prepare a physical therapy treatment plan conforming to the medical orders and goals; (III)

(2) Consult with other personnel in the facility who are providing resident care and plan with them for the integration of a physical therapy treatment program into the overall health care plan; (III)

(3) Instruct the nursing personnel responsible for administering selected restorative procedures between treatments; (III)

(4) Present programs in the facility's in-service education programs. (III)

d. Treatment records in the resident's medical chart shall include:

(1) The physician's prescription for treatment; (III)

(2) An initial evaluation note by the physical therapist; (III)

(3) The physical therapy care plan defining clearly the long-term and short-term goals and outlining the current treatment program; (III)

(4) Notes of the treatments given and changes in the resident's condition; (III)

(5) A complete discharge summary to include recommendations for nursing staff and family. (III)

e. There shall be adequate facilities, space, appropriate equipment, and storage areas as are essential to the treatment or examinations of residents. (III)

58.22(2) Other rehabilitative services.

a. The facility shall arrange for specialized and supportive rehabilitative services when such services are ordered by a physician. (III) These may include audiology and occupational therapy.

- b.* Audiology services shall be under the direction of a person licensed in the state of Iowa by the board of speech pathology and audiology. (II, III)
- c.* Occupational therapy services shall be under the direction of a qualified occupational therapist who is currently registered by the American Occupational Therapy Association. (II, III)
- d.* The appropriate professional shall:
 - (1) Develop the treatment plan and administer or direct treatment in accordance with the physician's prescription and rehabilitation goals; (III)
 - (2) Consult with other personnel within the facility who are providing resident care and plan with them for the integration of a treatment program into the overall health care plan. (III)

481—58.23(135C) Dental, diagnostic, and other services.**58.23(1) Dental services.**

- a.* The nursing facility personnel shall assist residents to obtain regular and emergency dental services. (III)
- b.* Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)
- c.* Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)
- d.* All dental reports or progress notes shall be included in the clinical record. (III)
- e.* Nursing personnel shall assist the resident in carrying out dentist's recommendations. (III)
- f.* Dentists shall be asked to participate in the in-service program of the facility. (III)

58.23(2) Diagnostic services.

- a.* The nursing facility shall make provisions for promptly securing required clinical laboratory, X-ray, and other diagnostic services. (III)
- b.* All diagnostic services shall be provided only on the written, signed order of a physician. (III)
- c.* Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)
- d.* Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)
- e.* Copies of all diagnostic reports shall be requested by the facility and included in the resident's clinical record. (III)
- f.* The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)
- g.* Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)

58.23(3) Other services.

- a.* The nursing facility shall assist residents to obtain such supportive services as requested by the physician. (III)
- b.* Transportation arrangements shall be made when necessary. (III)
- c.* Services could include the need for prosthetic devices, glasses, hearing aids, and other necessary items. (III)

481—58.24(135C) Dietary.

58.24(1) Organization of dietetic services. The facility shall meet the needs of the residents and provide the services listed in this standard. If the service is contracted out, the contractor shall meet the same standard. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

- a.* There shall be written policies and procedures for dietetic services that include staffing, nutrition, menu planning, therapeutic diets, preparation, service, ordering, receiving, storage, sanitation, and staff hygiene. The policies and procedures shall be made available for use by dietetic services. (III)
- b.* There shall be written job descriptions for each position in dietetic services. The job descriptions shall be made available for use by dietetic services. (III)

58.24(2) Dietary staffing.

- 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 American Dietetic Association; or
 - (3) Is a certified dietary manager certified by the certifying board for dietary managers of the Dietary Managers Association (DMA) and maintains that credential through 45 hours of DMA-approved continuing education; or
 - (4) Has completed a DMA-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 12 months of the date of enrollment; or
 - (6) Has completed or is in the final 90-hour training course approved by the department. (II, III)
- b.* The supervisor shall have overall supervisory responsibility for dietetic services and shall be employed for a sufficient number of hours to complete management responsibilities that include:
- (1) Participating in regular conferences with consultant dietitian, administrator and other department heads; (III)
 - (2) Writing menus with consultation from the dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)
 - (3) Establishing and maintaining standards for food preparation and service; (II, III)
 - (4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)
 - (5) Supervising activities of dietary personnel; (II, III)
 - (6) Maintaining up-to-date records of residents identified by name, location and diet order; (III)
 - (7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (II, III)
 - (8) Keeping records of repairs of equipment in dietetic services. (III)
- c.* 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 elsewhere; (II, III)
 - (3) Serving of therapeutic diets as prescribed by the physician and following the planned menu. (II, III)
- d.* 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. (II, III)
- e.* If the dietetic service supervisor is not a licensed dietitian, a consultant dietitian is required. The consultant dietitian shall be licensed by the state of Iowa pursuant to Iowa Code chapter 152A.
- f.* Consultants’ visits shall be scheduled to be of sufficient duration and at a time convenient to:
- (1) Record, in the resident’s medical record, any observations, assessments and information pertinent to medical nutrition therapy; (I, II, III)
 - (2) Work with residents and staff on resident care plans; (III)
 - (3) Consult with the administrator and others on developing and implementing policies and procedures; (III)
 - (4) Write or approve general and therapeutic menus; (III)
 - (5) Work with the dietetic supervisor on developing procedures, recipes and other management tools; (III)
 - (6) Present planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

g. In facilities licensed for more than 15 beds, dietetic services shall be available for a minimum of a 12-hour span extending from the time of preparation of breakfast through supper. (III)

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 orders and in consideration of the resident's 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 published by Blackwell Publishing, Ames, Iowa, 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 comparable to normal mealtimes in the community. (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. (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. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by department personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded. (III)

g. A file of tested recipes adjusted to the number of people to be served in the facility shall be maintained. (III)

h. Alternate foods shall be offered to residents who refuse the food served. (II, III)

58.24(4) Therapeutic diets.

a. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual shall be readily available to attending physicians, nurses and dietetic service personnel. This 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. (III)

b. Personnel responsible for planning, preparing and serving therapeutic diets shall receive instructions on those diets. (III)

58.24(5) Food preparation and service.

a. Methods used to prepare foods shall be those which conserve nutritive value and flavor and meet the taste preferences of the residents. (III)

b. Foods shall be attractively served. (III)

c. Foods shall be cut up, chopped, ground or blended to meet individual needs. (II, III)

d. Self-help devices shall be provided as needed. (II, III)

e. Table service shall be attractive. (III)

f. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (III)

g. All food that is transported through public corridors shall be covered. (III)

h. All potentially hazardous food or beverages capable of supporting rapid and progressive growth of microorganisms that can cause food infections or food intoxication shall be maintained at temperatures of 41°F or below or at 140°F or above at all times, except during necessary periods of preparation. Frozen food shall be maintained frozen. (I, II, III)

i. Potentially hazardous food that is cooked, cooled and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds. (I, II, III)

j. Food must be reheated to 165°F within no more than two hours after the heating process begins. (I, II, III)

k. Cooked potentially hazardous food shall be cooled:

(1) Within two hours, from 140°F to 70°F; and

(2) Within four hours, from 70°F to 41°F or less. (I, II, III)

58.24(6) Dietary ordering, receiving, and storage.

a. All food and beverages shall be of wholesome quality and procured from sources approved or considered satisfactory by federal, state and local authorities. Food or beverages from unlabeled, rusty, leaking, broken or damaged containers shall not be served. (I, II, III)

b. A minimum of at least a one-week supply of staple foods and a three-day supply of perishable foods shall be maintained on the premises to meet the planned menu needs until the next food delivery. Supplies shall be appropriate to meet the requirements of the menu. (III)

c. All milk shall be pasteurized. (III)

d. Milk may be served in individual, single-use containers. Milk may be served from refrigerated bulk milk dispensers or from the original container. Milk served from a refrigerated bulk milk dispenser shall be dispensed directly into the glass or other container from which the resident drinks. (II, III)

e. Records which show amount and kind of food purchased shall be retained for three months and shall be made available to the department upon request. (III)

f. Dry or staple items shall be stored at least six inches (15 cm) above the floor in a ventilated room, not subject to sewage or wastewater backflow, and protected from condensation, leakage, rodents or vermin in accordance with the Food Code, 1999 edition. (III)

g. Pesticides, other toxic substances and drugs shall not be stored in the food preparation or storage areas used for food or food preparation equipment and utensils. Soaps, detergents, cleaning compounds or similar substances shall not be stored in food storage rooms or areas. (II)

h. Food storage areas shall be clean at all times. (III)

i. There shall be a reliable thermometer in each refrigerator, freezer and in storerooms used for food. (III)

j. Foods held in refrigerated or other storage areas shall be appropriately covered. Food that was prepared and not served shall be stored appropriately, clearly identifiable and dated. (III)

58.24(7) Sanitation in food preparation area.

a. Unless otherwise indicated in this chapter or 481—Chapter 61, the sanitary provisions as indicated in Chapters 3, 4 and 7 of the 1999 Food Code, U.S. Public Health Service, Food and Drug Administration, Washington, DC 20204, shall apply.

b. Residents may be allowed in the food preparation area. (III)

c. The food preparation area may be used as a dining area for residents, staff or food service personnel. (III)

d. All food service areas shall be kept clean, free from litter and rubbish, and protected from rodents, animals, roaches, flies and other insects. (II, III)

e. All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair, and shall be free from breaks, corrosion, cracks and chipped areas. (II, III)

f. There shall be effective written procedures established for cleaning all work and serving areas. (III)

g. A schedule of cleaning duties to be performed daily shall be posted. (III)

h. An exhaust system and hood shall be clean, operational and maintained in good repair. (III)

i. Spillage and breakage shall be cleaned up immediately and disposed of in a sanitary manner. (III)

j. Wastes from the food service that are not disposed of by mechanical means shall be kept in leakproof, nonabsorbent, tightly closed containers when not in immediate use and shall be disposed of frequently. (III)

k. The food service area shall be located so it will not be used as a passageway by residents, guests or non-food service staff. (III)

l. The walls, ceilings and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. Walls and floors in wet areas should be moisture-resistant. (III)

m. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

n. There shall be no animals or birds in the food preparation area. (III)

o. All utensils used for eating, drinking, and preparing and serving food and drink shall be cleaned and disinfected or discarded after each use. (III)

p. If utensils are washed and rinsed in an automatic dishmachine, one of the following methods shall be used:

(1) When a conventional dishmachine is utilized, the utensils shall be washed in a minimum of 140°F using soap or detergent and sanitized in a hot water rinse of not less than 170°F. (II, III)

(2) When a chemical dishmachine is utilized, the utensils shall be washed in a minimum of 120°F using soap or detergent and sanitized using a chemical sanitizer that is automatically dispensed by the machine and is in a concentration equivalent to 50 parts per million (ppm) available chloride. (II, III)

q. If utensils are washed and rinsed in a three-compartment sink, the utensils shall be thoroughly washed in hot water at a minimum temperature of 110°F using soap or detergent, rinsed in hot water to remove soap or detergent, and sanitized by one of the following methods:

(1) Immersion for at least 30 seconds in clean water at 180°F; (II, III)

(2) Immersion in water containing bactericidal chemical at a minimum concentration as recommended by the manufacturer. (II, III)

r. After sanitation, the utensils shall be allowed to drain and dry in racks or baskets on nonabsorbent surfaces. Drying cloths shall not be used. (III)

s. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without first washing their hands. (III)

t. A mop and mop pail shall be provided for exclusive use in kitchen and food storage areas. (III)

58.24(8) Hygiene of food service personnel.

a. Personnel, if involved in dietetic services, shall be trained in basic food sanitation techniques, shall be clean and wear clean clothing, including a cap or a hairnet sufficient to contain, cover and restrain hair. Beards, mustaches and sideburns that are not closely cropped and neatly trimmed shall be covered. (III)

b. Personnel shall be excluded from duty when affected by skin infections or communicable diseases in accordance with the facility's infection control policies. (II, III)

c. Employee street clothing stored in the food service area shall be in a closed area. (III)

d. Food preparation sinks shall not be used for hand washing. Separate hand-washing facilities with soap, hot and cold running water, and single-use towels shall be used properly. (II, III)

e. The use of tobacco shall be prohibited in the food preparation area. (III)

58.24(9) Paid nutritional assistants. A paid nutritional assistant means an individual who meets the requirements of this subrule and who is an employee of the facility or an employee of a temporary employment agency employed by the facility. A facility may use an individual working in the facility as a paid nutritional assistant only if that individual has successfully completed a state-approved training program for paid nutritional assistants. (I, II, III)

a. *Training program requirements.*

(1) A state-approved training program for paid nutritional assistants must include, at a minimum, eight hours of training in the following areas:

1. Feeding techniques.
2. Assistance with feeding and hydration.
3. Communication and interpersonal skills.
4. Appropriate responses to resident behavior.

5. Safety and emergency procedures, including the Heimlich maneuver.
6. Infection control.
7. Resident rights.
8. Recognizing changes in residents that are inconsistent with their normal behavior and reporting these changes to the supervisory nurse.

(2) In addition to the training program requirements specified above, the training program must include at least four hours of classroom study, two hours of supervised laboratory work, and two hours of supervised clinical experience.

(3) A facility that offers a paid nutritional assistant training program must provide sufficient supplies in order to teach the objectives of the course.

(4) All paid nutritional assistant training program instructors shall be registered nurses. Other qualified health care professionals may assist the instructor in teaching the classroom portion and clinical or laboratory experiences. The ratio of students to instructor shall not exceed ten students per instructor in the clinical setting.

(5) Each individual enrolled in a paid nutritional assistant training program shall complete a 50-question multiple choice written test and must obtain a score of 80 percent or higher. In addition, the individual must successfully perform the feeding of a resident in a clinical setting. A registered nurse shall conduct the final competency determination.

(6) If an individual does not pass either the written test or competency demonstration, the individual may retest the failed portion a second time. If the individual does not pass either the written test or competency demonstration portion the second time, the individual shall not be allowed to retest.

b. Program approval. A facility or other entity may not offer or teach a paid nutritional assistant training program until the department has approved the program. Individuals trained in a program not approved by the department will not be allowed to function as paid nutritional assistants.

(1) A facility or other institution offering a paid nutritional assistant training program must provide the following information about the training program to the department before offering the program or teaching paid nutritional assistants:

1. Policies and procedures for program administration.
2. Qualifications of the instructors.
3. Maintenance of program records, including attendance records.
4. Criteria for determining competency.
5. Program costs and refund policies.
6. Lesson plans, including the objectives to be taught, skills demonstrations, assignments, quizzes, and classroom, laboratory and clinical hours.

(2) The facility or other institution offering a paid nutritional assistant training program must submit the materials specified above for department review. The department shall, within ten days of receipt of the material, advise the facility or institution whether the program is approved, or request additional information to assist the department in determining whether the curriculum meets the requirements for a paid nutritional assistant training program. Before approving any paid nutritional assistant training program, the department shall determine whether the curriculum meets the requirements specified in this subrule. The department shall maintain a list of facilities and institutions eligible to provide paid nutritional assistant training. (I, II, III)

(3) A facility shall maintain a record of all individuals who have successfully completed the required training program and are used by the facility as paid nutritional assistants. The individual shall complete the training program with a demonstration of knowledge and competency skills necessary to serve as a paid nutritional assistant. (I, II, III)

(4) Upon successful completion of the training program, the facility or other institution providing the training shall, within ten calendar days, provide the individual with a signed and dated certificate of completion. A facility that employs paid nutritional assistants shall maintain on file copies of the completed certificate and skills checklist for each individual who has successfully completed the training program. (I, II, III)

c. Working restrictions.

(1) A paid nutritional assistant must work under the supervision of a registered nurse or a licensed practical nurse. In an emergency, a paid nutritional assistant must call a supervisory nurse for help on the resident call system. (I, II, III)

(2) A facility must ensure that a paid nutritional assistant feeds only residents who have no complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube, parenteral or intravenous feedings. The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care. (I, II, III)

481—58.25(135C) Social services program.

58.25(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)

58.25(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

58.25(3) The social services plan, including specific goals and regular evaluation of progress, shall be incorporated into the overall plan of care. (III)

481—58.26(135C) Resident activities program.

58.26(1) *Organized activities.* Each nursing facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

e. The activity program shall include suitable activities for those residents unable to leave their rooms. (III)

f. The program shall be incorporated into the overall health plan and shall be designed to meet the goals as written in the plan.

58.26(2) *Coordination of activities program.*

a. Each nursing facility shall employ a person to direct the activities program. (III)

b. Staffing for the activity program shall be provided on the minimum basis of 35 minutes per licensed bed per week. (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. 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. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

58.26(3) *Duties of activity coordinator.* The activity coordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least quarterly). A copy of these notes shall be placed in the resident's clinical record; (III)

(3) Monthly calendars, prepared in advance. (III)

- d. Coordinate the activity program with all other services in the facility; (III)
- e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

58.26(4) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

¹ Emergency, pursuant to Iowa Code section 17A.5(2)“b”(2).

² Objection filed 2/14/79; see Objection at end of chapter.

481—58.27(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 as amended by 2013 Iowa Acts, Senate File 184, shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of long-term care ombudsman and Iowa department on aging.
[ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—58.28(135C) Safety. The licensee of a nursing facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

58.28(1) *Fire safety.*

a. All nursing facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

58.28(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be posted. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

58.28(3) *Resident safety.*

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

d. Smoking shall be permitted only in posted areas. (II, III)

e. Each resident shall receive adequate supervision to protect against hazards from self, others, or elements in the environment. (I, II, III)

f. Residents shall be protected against physical or environmental hazards to themselves. (I, II, III)
[ARC 1398C, IAB 4/2/14, effective 5/7/14]

481—58.29(135C) Resident care.

58.29(1) There shall be a readily available supply of self-help and ambulation devices such as wheelchairs, walkers, and such other devices maintained in good repair that will meet the current needs of all residents. (III)

58.29(2) The facility shall ensure that each ambulatory resident has well-fitting shoes to provide support and prevent slipping. (III)

58.29(3) Equipment for personal care shall be maintained in a safe and sanitary condition. (II, III)

58.29(4) The expiration date for sterile equipment shall be exhibited on its wrappings. (III)

58.29(5) Residents who have been known to wander shall be provided with appropriate means of identification. (II, III)

58.29(6) Electric heating pads, blankets, or sheets shall be used only on the written order of a physician, when allowed by the Life Safety Code or applicable state or local fire regulations. (II, III)

481—58.30 Rescinded, effective 7/14/82.

481—58.31(135C) Housekeeping.

58.31(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

58.31(2) Each resident unit shall be cleaned on a routine schedule. (III)

58.31(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

58.31(4) A hallway or corridor shall not be used for storage of equipment. (III)

58.31(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

58.31(6) Clothing worn by personnel shall be clean and washable. (III)

58.31(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

58.31(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

58.31(9) Polishes used on floors shall provide a nonslip finish. (III)

58.31(10) *Throw or scatter rugs shall not be permitted. (III)

*Objection. For text of Objection, see IAC Supp., Part I, 9/7/77. For text of Filed rules, 470—Chapter 58, see IAC Supp. 10/5/77.

58.31(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

58.31(12) Residents shall not have access to storage areas for all cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials. (II, III)

58.31(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

58.31(14) Definite procedures shall be established for training housekeeping personnel. (III)

58.31(15) Rescinded IAB 12/6/06, effective 1/10/07.

58.31(16) There shall be provisions for the cleaning and storage of housekeeping equipment and supplies for each nursing unit. (III)

58.31(17) Bathtubs, shower stalls, or lavatories shall not be used for laundering, cleaning of utensils and mops, or for storage. (III)

58.31(18) Bedside utensils shall be stored in enclosed cabinets. (III)

58.31(19) Kitchen sinks shall not be used for the cleaning of mops, soaking of laundry, cleaning of bedside utensils, nursing utensils, or dumping of wastewater. (III)

58.31(20) Personal possessions of residents which may constitute hazards to themselves or others shall be removed and stored. (III)

481—58.32(135C) Maintenance.

58.32(1) Each facility shall establish a maintenance program in writing to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. (III)

58.32(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

58.32(3) Draperies and furniture shall be clean and in good repair. (III)

58.32(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

58.32(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electrical code. (III)

58.32(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

58.32(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. Documentation of these inspections shall be available for review. (III)

58.32(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

58.32(9) The facility shall be kept free of flies, other insects, and rodents. (III)

58.32(10) Maintenance personnel.

a. A written program shall be established for the orientation of maintenance personnel. (III)

b. Maintenance personnel shall:

(1) Follow established written maintenance programs; (III)

(2) Be provided with appropriate, well-constructed, and properly maintained equipment. (III)

481—58.33(135C) Laundry.

58.33(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

58.33(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

58.33(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

58.33(4) Residents' personal laundry shall be marked with an identification. (III)

58.33(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

481—58.34(135C) Garbage and waste disposal.

58.34(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

58.34(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

58.34(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

58.34(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

58.34(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—58.35(135C) Buildings, furnishings, and equipment.

58.35(1) *Buildings—general requirements.*

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, 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)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-half-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of residents' clothing. (III)

58.35(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

58.35(3) *Dining and living rooms.*

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 58.35(3) "e" are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square 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)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably provided with parlor furniture, television and radio receivers in good working order, recreational material such as games, puzzles, and cards, and reading material such as current newspapers and magazines. Furnishings and equipment of the room should be such as to allow group activities. (III)

(3) Card tables or game tables shall be made available. The tables should be of a height to allow a person seated in a wheelchair to partake in the games or card playing. (III)

(4) Chairs of proper height and appropriate to their use shall be provided for seating residents at game tables and card tables. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) Dining tables and chairs shall be provided. (III)

(3) Dining tables should be so constructed that a person seated in a wheelchair can dine comfortably. (III)

(4) Tables shall be of sturdy construction with smooth, durable, nonpermeable tops that can be cleaned with a detergent sanitizing solution. (III)

(5) Dining chairs shall be sturdy and comfortable. Some arm chairs should be provided for ease of movement for some residents. (III)

(6) Residents shall be encouraged to eat in the dining room. (III)

58.35(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed that is substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. Seventy-five percent of the beds shall have a spring with an adjustable head and foot section. A resident shall have the right to sleep in a chair per the resident's request and to have the bed removed from the room to allow for additional space. (III)

b. Each bed shall be equipped with the following: casters or glides unless a low bed and mattress are being used for fall precautions; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average size; and moisture-proof covers and sheets as necessary to keep the mattress and pillows dry and clean. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. Clothing shall be hung in closets or wardrobes available in each room. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in the resident's room. (III)

l. Each room shall have sufficient accessible mirrors to serve the resident's needs. Mirrors are not required if the room is located in a CCDI unit and the mirrors cause concern for the resident. (III)

m. Sturdy, adjustable overbed tables shall be provided for each resident who is unable to eat in the dining room. (III)

n. Each resident bedroom shall have a door. The door shall be the swing type and shall not swing into the corridor. (III)

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 in an emergency. (III)

58.35(6) Water supply.

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department of health. (III)

58.35(7) Nonambulatory residents.

a. All nonambulatory residents shall be housed on the grade level floor. (II, III)

b. These provisions in "a" above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.

481—58.36(135C) Family and employee accommodations.

58.36(1) Children under 14 years of age shall not be allowed into the service areas. (III)

58.36(2) The residents' bedrooms shall not be occupied by employees or family members of the licensee. (III)

58.36(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

58.36(4) 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)

58.36(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—58.37(135C) Animals. Animals may be permitted within the facility with prior approval of the department and under controlled conditions. (III)

481—58.38(135C) Supplies.**58.38(1) Linen supplies.**

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

58.38(2) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

58.38(3) Supplies and equipment for nursing services.

a. All nursing care equipment shall be properly sanitized or sterilized before use by another resident. (II)

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." (I, II, III)

c. Convenient, safe storage shall be provided for bath and toilet supplies, bathroom scales, mechanical lifts, and shower chairs. (III)

d. Sanitary and protective storage shall be provided for all equipment and supplies. (III)

e. All items that must be sterilized shall be autoclaved unless sterile disposable items are furnished which are promptly disposed of after a single use. (III)

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

Bath basins	Rectal tubes
Soap containers	Catheters and catheterization equipment
Denture cups	Douche nozzle
Emesis basins	Oxygen therapy equipment
Mouthwash cups	Naso-gastric feeding equipment
Bedpans	Wheelchairs
Urinals	Moisture-proof draw sheets
Enema equipment	Moisture-proof pillow covers
Commodes	Moisture-proof mattress covers

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

481—58.39(135C) Residents' rights in general.

58.39(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions (subrules 58.39(2) to 58.39(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

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. Reasonable precautions to prevent the resident from harming self, other residents, or employees of the facility.
- b. Treatment of persons with mental illness as defined in Iowa Code section 229.1(1) and which is provided in accordance with the individualized health care plan.
- c. Ongoing and documented staff training on individualized health care planning for persons with mental illness.

58.39(3) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

- a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)
- b. As changes occur in residents' physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

58.39(4) Policies and procedures regarding the use of chemical and physical restraints shall define the use of said restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

58.39(5) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

58.39(6) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II)

58.39(7) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or the resident's responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of such changes. (II)

58.39(8) Each resident or responsible party shall be fully informed in a contract as required in rule 481—58.13(135C), prior to or at the time of admission and during the resident's stay, of services available in the facility, and of related charges including any charges for services not covered under the Title XIX program or not covered by the facility's basic per diem rate. (II)

58.39(9) Each resident or responsible party shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated (as documented by a physician in the resident's record). Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services' protection from research risks policy and then only upon the resident's informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident's medical condition and be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident's condition is contraindicated, this decision and reasons for it shall be documented in the resident's record by the physician. (II)

d. The resident's plan of care shall be based 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)

This rule is intended to implement Iowa Code section 135C.23(2).
[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.40(135C) Involuntary discharge or transfer.

58.40(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident's welfare or that of other residents;
- c. Nonpayment for the resident's stay, as described in the contract for the resident's stay;
- d. Due to action pursuant to Iowa Code chapter 229;
- e. By reason of negative action by the Iowa department of human services; or
- f. By reason of negative action by the quality improvement organization (QIO). (I, II, III)

58.40(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

58.40(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

58.40(4) *Involuntary discharge or transfer prohibited—payment source.* A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

58.40(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a. The notice shall contain all of the following information:
 - (1) The stated reason for the proposed transfer or discharge. (II)
 - (2) The effective date of the proposed transfer or discharge. (II)
 - (3) A statement, in not less than 12-point type, that reads as follows:

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. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 58.40(5) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7). **58.40(6) *Emergency transfer or discharge.*** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

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. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7).
58.40(7) Hearing.

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the facility, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

g. If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the QIO, an appeal shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

58.40(8) Nonpayment. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

58.40(9) Discussion of involuntary transfer or discharge. Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

58.40(10) Transfer or discharge planning.

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 58.40(10) "b" does not apply if the discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

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 days must be allowed for an orderly transfer of residents to other facilities.

58.40(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

- (1) Resident's incompatibility with or disturbance to other roommates.
- (2) For the welfare of the resident or other residents of the facility.
- (3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.
- (4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

- (1) Change from private pay status to Title XIX, except as outlined in subparagraph 58.40(12) "a" (5). (II)
- (2) As punishment or behavior modification, except as specified in subparagraph 58.40(12) "a" (1). (II)
- (3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 58.40(12) "a," the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

[ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—58.41(135C) Residents' rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

58.41(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

58.41(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

- a. Designation of an employee responsible for handling grievances and recommendations. (II)
- b. A method of investigating and assessing the validity of a grievance or recommendation. (II)
- c. Methods of resolving grievances. (II)
- d. Methods of recording grievances and actions taken. (II)

58.41(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, and certified volunteer long-term care ombudsman and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—58.42(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

58.42(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

58.42(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

58.42(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident's responsible party shall designate a method of disbursing the resident's funds. (II)

58.42(4) If the facility makes financial transactions on a resident's behalf, the resident must receive or acknowledge that the resident has seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

58.42(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

58.42(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.43(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. Each resident shall be free from chemical and physical restraints except as follows: when authorized in writing by a physician for a specified period of time; when necessary in an emergency to protect the resident from injury to the resident or to others, in which case restraints may be authorized by designated professional personnel who promptly report the action taken to the physician; and in the case of an intellectually disabled individual when ordered in writing by a physician and authorized by a designated qualified intellectual disabilities professional for use during behavior modification sessions. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

58.43(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

58.43(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

58.43(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff. (II)

58.43(4) Physicians' orders are required to utilize all types of physical restraints and shall be renewed at least quarterly. (II) Physical restraints are defined as the following:

Type I—the equipment used to promote the safety of the individual but is not applied directly to their person. Examples: divided doors and totally enclosed cribs.

Type II—the application of a device to the body to promote safety of the individual. Examples: vest devices, soft-tie devices, hand socks, geriatric chairs.

Type III—the application of a device to any part of the body which will inhibit the movement of that part of the body only. Examples: wrist, ankle or leg restraints and waist straps.

58.43(5) Physical restraints are not to be used to limit resident mobility for the convenience of staff and must comply with life safety requirements. If a resident's behavior is such that it may result in injury to the resident or others and any form of physical restraint is utilized, it should be in conjunction with a treatment procedure(s) designed to modify the behavioral problems for which the resident is restrained, or as a last resort, after failure of attempted therapy. (I, II)

58.43(6) Each time a Type II or III restraint is used documentation on the nurse's progress record shall be made which includes type of restraint and reasons for the restraint and length of time resident was restrained. The documentation of the use of Type III restraint shall also include the time of position change. (II)

58.43(7) Each facility shall implement written policies and procedures governing the use of restraints which clearly delineate at least the following:

- a. Physicians' orders shall indicate the specific reasons for the use of restraints. (II)
- b. Their use is temporary and the resident will not be restrained for an indefinite amount of time. (I, II)
- c. A qualified nurse shall make the decision for the use of a Type II or Type III restraint for which there shall be a physician's order. (II)
- d. A resident placed in a Type II or III restraint shall be checked at least every 30 minutes by appropriately trained staff. No form of restraint shall be used or applied in such a manner as to cause injury or the potential for injury and provide a minimum of discomfort to resident restrained. (I, II)
- e. Reorders are issued only after the attending physician reviews the resident's condition. (II)
- f. Their use is not employed as punishment, for the convenience of the staff, or as a substitute for supervision or program. (I, II)
- g. The opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which Type II and Type III restraints are employed, except when resident is sleeping. However, when resident awakens, this shall be provided. This shall be documented each time. A check sheet may serve this purpose. (I, II)
- h. Locked restraints or leather restraints shall not be permitted except in life-threatening situations. Straight jackets and secluding residents behind locked doors shall not be employed. (I, II)
- i. Nursing assessment of the resident's need for continued application of a Type III restraint shall be made every 12 hours and documented on the nurse's progress record. Documentation shall include the type of restraint, reason for the restraint and the circumstances. Nursing assessment of the resident's need for continued application of either a Type I or Type II restraint and nursing evaluation of the resident's physical and mental condition shall be made every 30 days and documented on the nurse's progress record. (II)
- j. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room. (II)
- k. Divided doors shall be of the type that when the upper half is closed the lower section shall close. (II)
- l. Methods of restraint shall permit rapid removal of the resident in the event of fire or other emergency. (I, II)

m. The facility shall provide orientation and ongoing education programs in the proper use of restraints.

58.43(8) In the case of an intellectually disabled individual who participates in a behavior modification program involving use of restraints or aversive stimuli, the program shall be conducted only with the informed consent of the individual's parent or responsible party. Where restraints are employed, an individualized program shall be developed by the interdisciplinary team with specific methodologies for monitoring its progress. (II)

a. The resident's responsible party shall receive a written account of the proposed plan of the use of restraints or aversive stimuli and have an opportunity to discuss the proposal with a representative(s) of the treatment team. (II)

b. The responsible party must consent in writing prior to the use of the procedure. Consent may also be withdrawn in writing. (II)

58.43(9) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

58.43(10) and **58.43(11)** Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14, 235B.3(1), and 235B.3(11).
[ARC 0766C, IAB 5/29/13, effective 7/3/13; ARC 1204C, IAB 12/11/13, effective 1/15/14]

481—58.44(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

58.44(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

58.44(2) Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

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)

481—58.45(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (II)

58.45(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

58.45(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

58.45(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

58.45(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

58.45(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply in emergency conditions. (II)

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. (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)

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) 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:

- 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) 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) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

58.47(5) Telephones consistent with ANSI standards (405.1134(c)) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

58.47(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

58.47(7) 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) 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)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.48(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident's record. (II)

58.48(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

58.48(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—58.49(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

58.49(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

58.49(2) Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

58.49(3) Any personal clothing or possessions retained by the facility for the resident during the resident's stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of the items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

58.49(4) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

58.49(5) A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—58.50(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident's spouse; if both are residents in the facility, they shall be permitted to share a room if available. (II)

58.50(1) The facility shall provide for needed privacy in visits between spouses. (II)

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)

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 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)

481—58.52(135C) Incompetent resident.

58.52(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

58.52(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

481—58.53(135C) County care facilities. In addition to Chapter 58 licensing rules, county care facilities licensed as nursing facilities must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

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

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 license. The license shall state the number of beds in the unit or facility. (III)

a. Application for this category of care shall be submitted on a form provided by the department. (III)

b. Plans to modify the physical environment shall be submitted to the department. The plans shall be reviewed based on the requirements of 481—Chapter 61. (III)

58.54(2) A statement of philosophy shall be developed for each unit or facility which states the beliefs upon which decisions will be made regarding the CCDI unit or facility. Objectives shall be developed for each CCDI unit or facility as a whole. The objectives shall be stated in terms of expected results. (II, III)

58.54(3) A résumé of the program of care shall be submitted to the department for approval at least 60 days before a separate CCDI unit or facility is opened. A new résumé of the program of care shall be submitted when services are substantially changed. (II, III)

The résumé of the program of care shall:

a. Describe the population to be served; (II, III)

b. State philosophy and objectives; (II, III)

c. List admission and discharge criteria; (II, III)

d. Include a copy of the floor plan; (II, III)

e. List the titles of policies and procedures developed for the unit or facility; (II, III)

f. Propose a staffing pattern; (II, III)

g. Set out a plan for specialized staff training; (II, III)

h. State visitor, volunteer, and safety policies; (II, III)

i. Describe programs for activities, social services and families; (II, III) and

j. Describe the interdisciplinary care planning team. (II, III)

58.54(4) Separate written policies and procedures shall be implemented in each CCDI unit or facility. There shall be:

a. Admission and discharge policies and procedures which state the criteria to be used to admit residents and the evaluation process which will be used. These policies shall require a statement from the attending physician agreeing to the placement before a resident can be moved into a CCDI unit or facility. (II, III)

b. Safety policies and procedures which state the actions to be taken by staff in the event of a fire, natural disaster, emergency medical or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility and when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility. The facility shall identify its method for security of the unit or facility and the manner in which the effectiveness of the security system will be monitored. (II, III)

c. Program and service policies and procedures which explain programs and services offered in the unit or facility including the rationale. (III)

d. Policies and procedures concerning staff which state minimum numbers, types and qualifications of staff in the unit or facility. (II, III)

e. Policies about visiting which suggest times and ensure the residents' rights to free access to visitors. (II, III)

f. Quality assurance policies and procedures which list the process and criteria which will be used to monitor and to respond to risks specific to the residents. This shall include, but not be limited to, drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

58.54(5) Preadmission assessment of physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by a registered nurse and a staff social worker or social work consultant and shall become part of the permanent record upon admission of the resident. (II, III)

58.54(6) All staff working in a CCDI unit or facility shall have training appropriate to the needs of the residents. (II, III)

a. Upon assignment to the unit or facility, everyone working in the unit or facility shall be oriented to the needs of people with chronic confusion or dementing illnesses. They shall have special training appropriate to their job description within 30 days of assignment to the unit or facility. (II, III) The orientation shall be at least six hours. The following topics shall be covered:

- (1) Explanation of the disease or disorder; (II, III)
- (2) Symptoms and behaviors of memory-impaired people; (II, III)
- (3) Progression of the disease; (II, III)
- (4) Communication with CCDI residents; (II, III)
- (5) Adjustment to care facility residency by the CCDI unit or facility residents and their families; (II, III)
- (6) Inappropriate and problem behavior of CCDI unit or facility residents and how to deal with it; (II, III)
- (7) Activities of daily living for CCDI residents; (II, III)
- (8) Handling combative behavior; (II, III) and
- (9) Stress reduction for staff and residents. (II, III)

b. Licensed nurses, certified aides, certified medication aides, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of CCDI residents. The six-hour training shall count toward the required annual in-service training. (II, III)

58.54(7) There shall be at least one nursing staff person on a CCDI unit at all times. (I, II, III)

58.54(8) The CCDI unit or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and Iowa Administrative Code 481—Chapter 50.

This rule is intended to implement 1990 Iowa Acts, chapter 1016.

481—58.55(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the physical structure of the facility, if the other business or activity meets the requirements of applicable state and federal laws, administrative rules, and federal regulations.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “f” of subrule 58.55(1). (I, II, III)

58.55(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a.* Health and safety risks for residents;
- b.* Noise created by the proposed business or activity;
- c.* Odors created by the proposed business or activity;
- d.* Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- e.* Proposed staffing for the business or activity; and
- f.* Sharing of services and staff between the proposed business or activity and the facility.

58.55(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

58.55(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 61. (I, II, III)

481—58.56(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A nursing facility which chooses to

provide respite care services must meet the following requirements related to respite services and must be licensed as a nursing facility.

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 CFR 483.12, admission, transfer and discharge rights.

58.56(2) A nursing facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

58.56(3) Rule 481—58.40(135C) regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

58.56(4) Pursuant to rule 481—58.13(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—58.13(135C), except the requirements under subrule 58.13(7).

58.56(5) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

481—58.57(135C) Training of inspectors.

58.57(1) Subject to the availability of funding, all nursing facility inspectors shall receive 12 hours of annual continuing education in gerontology, wound care, dementia, falls, or a combination of these subjects.

58.57(2) An inspector shall not be personally liable for financing the training required under subrule 58.57(1).

58.57(3) The department shall consult with the collective bargaining representative of the inspector in regard to the training required under this rule.

[ARC 8433B, IAB 12/30/09, effective 2/3/10]

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.

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]

[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]

[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]

[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]

[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]

[Filed emergency 9/30/77—published 10/19/77, effective 9/30/77]

[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]

[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]

[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]

[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]

[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]

[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]

[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]

[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]

[Filed without Notice 7/16/82—published 8/4/82, effective 9/8/82]

[Filed 3/11/83, Notice 1/5/83—published 3/30/83, effective 5/4/83]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]¹

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]²

[Filed 6/27/86, Notice 3/26/86—published 7/16/86, effective 8/20/86]

[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]

[Filed 2/6/87, Notice 10/22/86—published 2/25/87, effective 4/1/87]

[Filed 2/6/87, Notice 11/5/86—published 2/25/87, effective 4/1/87]
 [Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
 [Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
 [Filed 10/26/87, Notice 8/26/87—published 11/18/87, effective 12/23/87]
 [Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88][◇]
 [Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
 [Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
 [Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88][◇]
 [Filed 1/5/89, Notice 10/5/88—published 1/25/89, effective 3/1/89]
 [Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
 [Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
 [Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
 [Filed emergency 5/11/90—published 5/30/90, effective 5/11/90]
 [Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
 [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
 [Filed emergency 7/17/91—published 8/7/91, effective 7/19/91]
 [Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
 [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
 [Filed 1/15/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]
 [Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
 [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
 [Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
 [Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
 [Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
 [Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
 [Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
 [Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
 [Filed 1/21/99, Notice 10/7/98—published 2/10/99, effective 3/17/99]
 [Filed 11/12/99, Notice 10/6/99—published 12/1/99, effective 1/5/00]
 [Filed 7/17/03, Notice 6/11/03—published 8/6/03, effective 9/10/03]
 [Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
 [Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
 [Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
 [Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]
 [Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
 [Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
 [Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
 [Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07][◇]
 [Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
 [Filed ARC 8433B (Notice ARC 8190B, IAB 10/7/09), IAB 12/30/09, effective 2/3/10]
 [Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
 [Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
 [Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
 [Filed ARC 1048C (Notice ARC 0923C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1398C (Notice ARC 1313C, IAB 2/5/14), IAB 4/2/14, effective 5/7/14]
 [Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]
 [Editorial change: IAC Supplement 1/21/15]

[◇] Two or more ARCs

- ¹ Effective date of 470—58.15(2)“c” delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86.
Effective date of 470—58.15(2)“c” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.
- ² See IAB, Inspections and Appeals Department.

OBJECTION

At its February 13 meeting the Administrative Rules Review Committee voted the following objection: [Subrules 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b,” 63.21(3)“b,” published IAB 12/13/78]

The committee objects to the amendments to 470* IAC 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b” and 63.21(3)“b,” which strike the phrase “Twenty-five percent of the staffing may be provided by qualified volunteers. The time shall be spent in working with the organized program activity.”, on the grounds these provisions are unreasonable. It is the understanding of the committee these deletions in effect require facilities to employ a person to coordinate recreation activities. It is the feeling of the committee this would result in higher per bed costs without demonstrably improving the services rendered to the patient. Volunteers have always played a major role in health care institutions, and no evidence has been submitted indicating a decline in that role or in public interest in donating time and energy.

These amendments appear in the 12-13-78 IAB, and have been filed under the emergency provisions of chapter 17A, 1979 Code.

*Chapter 57 transferred to Inspections and Appeals[481], IAC 7/15/87.

CHAPTER 63
RESIDENTIAL CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED
[Prior to 7/15/87, Health Department[470] Ch 63]

481—63.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicate those standards are mandatory. The use of the words “should” and “could” indicate those standards are recommended.

“*Accommodation*” means the provision of lodging, including sleeping, dining, and living areas.

“*Administrator*” means a person who administers, manages, supervises, and is in general administrative charge of a residential care facility for the intellectually disabled, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

“*Alcoholic*” means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

“*Ambulatory*” means a person who immediately and without aid of another, is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“*Basement*” means that part of a building where the finish floor is more than 30 inches below the finish grade.

“*Board*” means the regular provision of meals.

“*Communicable disease*” means a disease caused by the presence of virus or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

“*Department*” means the state department of inspections and appeals.

“*Distinct part*” means a clearly identifiable area or section within a residential care facility for the intellectually disabled, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

“*Drug addiction*” means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

“*Interdisciplinary team*” means persons drawn from, or representing such of the professions, disciplines, or services required for the care of the resident.

“*Medication*” means any drug including over-the-counter substances ordered and administered under the direction of the physician.

“*Nonambulatory*” means a person who immediately and without the aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“*Personal care*” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

“*Primary care provider*” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“*Program of care*” means all services being provided for a resident in a health care facility.

“*Qualified intellectual disabilities professional*” means a psychologist, physician, 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 the intellectually disabled.

“*Rate*” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these regulations.

“*Responsible party*” means the person who signs or cosigns the admission agreement required in 481—63.14(135C) or the resident’s guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the resident’s admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of social services, Veterans Administration, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

“*Restraints*” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—63.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility for the intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

63.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing, on a form provided by the department;
- b. Cite the rule or rules from which a variance is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain alternate arrangement or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

63.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
- b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;
- c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d. Consult with the applicant if additional information is required.

63.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.3(135C) Application for licensure.

63.3(1) Initial application and licensing. In order to obtain an initial residential care facility for the intellectually disabled license for a residential care facility for the intellectually disabled which is currently licensed, the applicant must:

- a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63;
- b. Submit a letter of intent and a written résumé of the resident care program and other services provided which reflect the services indicated in individualized programs of care for each resident for departmental review and approval;
- c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;
- d. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which each room will be put and window and door location;
- e. Submit a photograph of the front and side elevation of the facility;
- f. Submit the statutory fee for a residential care facility for the intellectually disabled for which licensure application is made;
- g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(2) In order for a facility not currently licensed as a residential care facility for the intellectually disabled to obtain an initial license as a residential care facility for the intellectually disabled, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63 (exceptions noted in 60.3(2) shall not apply);

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the residential care facility for the intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the residential care facility for the intellectually disabled;

f. Submit the statutory fee for a residential care facility for the intellectually disabled;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(3) Renewal application. In order to obtain a renewal of the residential care facility for the intellectually disabled license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of residential care facility for the intellectually disabled license;

b. Submit the statutory license fee for a residential care facility for the intellectually disabled with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the résumé to reflect any changes in the resident care program and other services.

63.3(4) Deemed status.

a. The department shall recognize, in lieu of its own inspection, the comparable inspection and inspection findings of the Accreditation Council for Service for Mentally Retarded and Other Developmentally Disabled Persons (AC—MR/DD), if the department is given copies of all requested materials relating to the comparable inspection process, is notified of the scheduled comparable inspection not less than 30 days in advance of the inspection, and is given the opportunity to monitor the comparable inspection. The department may verify the findings of 10 percent of the comparable inspections, selected annually on a random basis, in order to ensure compliance with minimum residential care standards established pursuant to this chapter.

b. The above accreditation will be accepted in lieu of the department's yearly licensure inspection for each year of the AC—MR/DD accreditation period up to two years.

63.3(5) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.9.
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.4(135C) General requirements.

63.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

63.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

63.4(3) The posted license shall accurately reflect the current status of the residential care facility for the intellectually disabled. (III)

63.4(4) Licenses expire one year after the date of issuance, or as indicated on the license.

63.4(5) 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. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.5(135C) Notifications required by the department. The department shall be notified:

63.5(1) Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

63.5(2) Of any proposed change in the residential care facility for the intellectually disabled's functional operation or addition or deletion of required services; (III)

63.5(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility for the intellectually disabled, or on the premises; (III)

63.5(4) Thirty days in advance of closure of the residential care facility for the intellectually disabled; (III)

63.5(5) Within two weeks of any change in administrator; (III)

63.5(6) When any change in the category of license is sought; (III)

63.5(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

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

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

63.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the department shall upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—63.7(135C) Licenses for distinct parts.

63.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

63.7(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. A distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—63.8(135C) Administrator. Each residential care facility for the intellectually disabled shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

63.8(1) The administrator shall be at least 18 years of age and shall have a high school diploma or equivalent. (III) In addition this person shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator who is also a qualified intellectual disabilities professional; (III) or

b. Be a qualified intellectual disabilities professional with at least one year of experience in an administrative capacity in a health care facility; (III) or

c. Have completed a one-year educational training program approved by the department for residential care facility for the intellectually disabled. (III)

63.8(2) The administrator may act as an administrator for not more than two residential care facilities for the intellectually disabled. (II)

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

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

63.8(3) The licensee may be the approved administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

63.8(4) A provisional administrator may be appointed on a temporary basis by the residential care facility for the intellectually disabled licensee to assume the administrative responsibilities for a residential care facility for the intellectually disabled for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace the administrator, provided the department has been notified prior to the date of the administrator's appointment. (III)

63.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least 18 years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

63.8(6) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility for the intellectually disabled; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the residential care facility for the intellectually disabled. (III)

63.8(7) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

- b.* Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)
 - c.* Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
 - d.* Make available the residential care facility for the intellectually disabled payroll records for departmental review as needed. (III)
- [ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.9(135C) General policies.

63.9(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

63.9(2) There shall be a written job description developed for each category of worker in facilities. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

63.9(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

- a.* Employees shall have a physical examination before employment. (I, II, III)
- b.* Employees shall have a physical examination at least every four years. (I, II, III)
- c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

63.9(4) Health certificates for all employees shall be available for review. (III)

63.9(5) Rescinded IAB 10/19/88, effective 11/23/88.

63.9(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

63.9(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

63.9(8) The residential care facility for the intellectually disabled shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

63.9(9) Each facility licensed as a residential care facility for the intellectually disabled shall provide an organized continuous 24-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

63.9(10) Each facility shall have a written and implemented infection control program addressing the following:

- a.* Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

- b.* Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

- c.* Dressings, soaks, or packs; (I, II, III)

- d.* Infection identification; (I, II, III)

- e.* Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

- f.* Sanitation techniques for resident care equipment; (I, II, III)

- g.* Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)

- h.* Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

63.9(11) Aseptic techniques. If a resident needs any of the treatments or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

63.9(12) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.10 Rescinded, effective 7/14/82.

481—63.11(135C) Personnel.

63.11(1) *General qualifications.*

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility for the intellectually disabled. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility for the intellectually disabled. (II)

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

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

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

d. Reserved.

e. 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)

63.11(2) *Supervision and staffing.*

a. The department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility for the intellectually disabled, using as its criteria the services being offered as indicated on the résumé program of care and, as required for individual care plans, the needs of the resident. (II, III)

b. Personnel in a residential care facility for the intellectually disabled shall provide 24-hour coverage for residential care services for the intellectually disabled. Personnel shall be up and dressed at all times in facilities with more than 15 beds. In facilities with 15 or fewer beds, personnel shall be up and dressed when residents are awake. (II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II, III)

d. Physician's orders shall be implemented by qualified personnel. (II, III)

63.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—63.12(135C) Resident care and personal services.

63.12(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

63.12(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

63.12(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

63.12(4) Rescinded, effective 7/14/82.

63.12(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

63.12(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

63.12(7) Rescinded, effective 7/14/82.

63.12(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

63.12(9) Residents shall be required to bathe at least twice a week. (II, III)

481—63.13(135C) Admission, transfer, and discharge.

63.13(1) *General admission policies.*

a. No resident who is in need of greater services than the facility can provide shall be admitted or retained in a residential care facility for the intellectually disabled. (II, III)

b. No residential care facility for the intellectually disabled shall admit more residents than the number of beds for which it is licensed. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a residential care facility for the intellectually disabled shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal representative. (III)

f. The admission of a resident shall not grant the residential care facility for the intellectually disabled the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the residential care facility for the intellectually disabled as required by these rules. (III)

g. A residential care facility for the intellectually disabled 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. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the residential care facility for the intellectually disabled, belonging to or due a resident, expendable for the resident's account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or

applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity. (III)

l. Upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of such county care facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards. (III)

63.13(2) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the residential care facility for the intellectually disabled for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such transfer or discharge. (II, III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 63.17(1) of these rules will accompany the resident. (II, III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.14(135C) Contracts. Each party shall receive a copy of the signed contract. Each contract for residents shall:

63.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

63.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 63.14(2); (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

63.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on a preadmission evaluation assessment which is determined in consultation with the administrator; (III)

63.14(4) Include the total fee to be charged initially to the resident; (III)

63.14(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident or responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident or responsible party, when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also

be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

63.14(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

63.14(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party:

a. The facility shall ask the resident or responsible party if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented; (II)

b. The facility shall reserve the bed when requested for as long as the resident can ensure payment in accordance with the contract; (II)

63.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

63.14(9) State the conditions of voluntary discharge or transfer; (III)

63.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

481—63.15(135C) Physical examinations.

63.15(1) Each resident in a residential care facility for the intellectually disabled shall have a designated licensed physician, who may be called when needed. (III)

63.15(2) Each resident admitted to a residential care facility for the intellectually disabled shall have had a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

63.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

63.15(4) Rescinded, effective 7/14/82.

63.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (I, II, III)

63.15(6) Each resident shall be visited by or shall visit the resident's physician at least annually. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the intellectually disabled may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

63.15(7) Residents shall be admitted to a residential care facility for the intellectually disabled only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

This rule is intended to implement Iowa Code section 135C.23(2).

[ARC 0663C, IAB 4/3/13, effective 5/8/13; ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.16(135C) Dental services.

63.16(1) The residential care facility for the intellectually disabled personnel shall assist residents to obtain regular and emergency dental services. (III)

63.16(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

63.16(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

63.16(4) All dental reports or progress notes shall be included in the clinical record. (III)

63.16(5) Personal care staff shall assist the resident in carrying out dentist's recommendations. (III)

63.16(6) Dentists shall be asked to participate in the in-service program of the facility. (III)
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.17(135C) Records.

63.17(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a residential care facility for the intellectually disabled with all entries current, dated, and signed. (III)
The record shall include:

- a. Name and previous address of resident; (III)
 - b. Birth date, sex, and marital status of resident; (III)
 - c. Church affiliation; (III)
 - d. Physician's name, telephone number, and address; (III)
 - e. Dentist's name, telephone number, and address; (III)
 - f. Name, address, and telephone number of next of kin or legal representative; (III)
 - g. Name, address, and telephone number of person to be notified in case of emergency; (III)
 - h. Mortician's name, telephone number, and address; (III)
 - i. Pharmacist's name, telephone number, and address; (III)
 - j. Physical examination and medical history; (III)
 - k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
 - l. Physician's orders for medication, treatment, and diet in writing and signed by the physician; (III)
 - m. A notation of yearly or other visits to physician or other professional services; (III)
 - n. Any change in the resident's condition; (II, III)
 - o. If the physician has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medication, treatments, and diet prescribed by the physician for each resident; (III)
 - p. If the physician has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)
 - q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)
 - r. A notation describing condition on admission, transfer, and discharge; (III)
 - s. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)
 - t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
 - u. Disposition of valuables. (III)
- 63.17(2)** *Incident record.*
- a. Each residential care facility for the intellectually disabled shall maintain an incident record report and shall have available incident report forms. (III)
 - b. Report of incidents shall be in detail on a printed incident report form. (III)

c. The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

63.17(3) Retention of records.

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

63.17(4) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.17(5) Personnel record.

a. An employment record shall be kept for each employee consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)
[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.18(135C) Drugs.

63.18(1) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom but locked storage must be provided. (III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)

(2) A bathroom shall not be used for drug storage; (III)

(3) The drug storage cabinet shall be kept locked; (III)

(4) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked medication cabinet; (II)

(5) The medicine cabinet key shall be in the possession of the employee charged with the responsibility of administering medications; (II, III)

(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)

(7) Drugs for external use shall be stored separately from drugs for internal use; (III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I, II)

(9) The drug cabinet shall have a work counter, both the counter and cabinet shall be well-lighted; (III)

(10) Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)

(11) Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not

be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. Bulk supplies of prescription drugs shall not be kept in a residential care facility for the intellectually disabled unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

63.18(2) Drug safeguards.

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. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. 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)

i. 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 person with a witness and 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)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to keep in the resident's possession any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

m. Each facility shall establish a policy cooperating with a licensed pharmacist to govern distributing prescribed medication to residents who are on leave from a facility. (III)

(1) Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 63.18(2) "a," non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

(2) 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.

(3) Medication distributed as above may be issued only by facility personnel responsible for administering medication.

63.18(3) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;

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

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

e. 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) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. In an RCF/ID facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

g. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph "d" of this subrule do not apply to this individual.

h. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day they are administered, (II) unless the unit dose system is used.

i. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA).

j. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to "i" above or as otherwise authorized by the resident's physician. Authorization by the physician shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the individual authorized to administer the insulin,

(5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

k. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13; ARC 1050C, IAB 10/2/13, effective 11/6/13]

481—63.19(135C) Dietary.**63.19(1) Dietary staffing.**

a. In facilities licensed for over 15 beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over 15 beds. (III)

63.19(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician's orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the food and nutrition board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

(1) Milk—two or more cups served as beverage or used in cooking;

(2) Meat group—two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group—four or more servings of whole-grain, enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

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 substantial evening meal and breakfast. (II, III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

63.19(3) Dietary storage, food preparation, and service.

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II, III)

b. The use of food from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

d. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and or perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II, III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)

g. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

63.19(4) Sanitation in food preparation area.

a. "Food Service Sanitation Manual," revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with food service sanitation.

b. Residents shall not be allowed in the food preparation area, unless indicated in their individualized care plans. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II, III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II, III)

f. All appliances and work areas shall be kept clean. (III)

g. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds. (III)

h. A schedule for duties to be performed daily shall be posted in each food area. (III)

i. All cooking stoves in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)

n. There shall be no washing, ironing, sorting, or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities of over 15 beds directions for the dishwashing procedure shall be posted and available to all kitchen personnel. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (70°C) to 180°F (82°C). (III)

t. The washing and sanitizing of dishes and utensils shall meet approved sanitation procedures and practices. In facilities of 15 or more beds, a mechanical dishwashing machine or three-compartment sink shall be used for washing dishes; a booster heater for the third compartment or sanitizing agent shall be used. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

63.19(5) Hygiene of food service personnel.

a. Food service personnel shall be free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II, III)

b. Staff employees who are full-time food service personnel shall wear clean, washable uniforms that are not used for duties outside the food service area. In all facilities, employees shall wear clean, washable clothing when in the food service area. (III)

c. Hairnets shall be worn by all staff food service personnel. Total enclosure of facial hair shall be provided for staff personnel. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good hand-washing techniques. A hand-wash sink shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

63.19(6) Food and drink. All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II, III)

481—63.20(135C) Orientation program.

63.20(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)

63.20(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

481—63.21(135C) Individualized program of care.

63.21(1) The individualized program of care, including specific goals and regular evaluation of progress, shall incorporate the social services, psychological, educational activities, and medical needs of the residents, and shall be designed by an interdisciplinary team. (II)

63.21(2) Each residential care facility for the intellectually disabled shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The activity program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not forced, to participate in the activity program. (III)

63.21(3) Coordination of activities program.

a. Each residential care facility for the intellectually disabled with over 15 beds shall employ a person to direct the activities program. (III)

¹b. ²Staffing for the activity program shall be provided on the minimum basis of 45 minutes per licensed bed per week. (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. 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. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

63.21(4) Duties of activity coordinator. The activity coordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least every three months).

(III)

(3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

63.21(5) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

¹ Emergency, pursuant to Iowa Code section 17A.5(2)"b"(2).

² Objection filed 2/14/79; see Objection at end of chapter.

481—63.22(135C) Care review committee. Rescinded ARC 1205C, IAB 12/11/13, effective 1/15/14.

481—63.23(135C) Safety. The licensee of a residential care facility for the intellectually disabled shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

63.23(1) *Fire safety.*

a. All residential care facilities for the intellectually disabled shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size and condition of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

63.23(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency which shall be rehearsed at least quarterly. (III)

a. The plan shall be available for review upon request. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

63.23(3) *Resident safety.*

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

- d. Smoking shall be permitted only in designated areas. (II, III)
- e. Residents shall receive adequate supervision to ensure against hazards from themselves, others, or elements in the environment. (II, III)

63.23(4) Restraints.

- a. Residents shall not be kept behind locked doors.
- b. Temporary seclusion of residents shall be used only in an emergency to prevent injury to the resident or to others pending transfer to appropriate placements.
- c. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room.
- d. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.24(135C) Housekeeping.

63.24(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

63.24(2) Each resident unit shall be cleaned on a routine schedule. (III)

63.24(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

63.24(4) A hallway or corridor shall not be used for storage of equipment. (III)

63.24(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

63.24(6) Clothing worn by personnel shall be clean and washable. (III)

63.24(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

63.24(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

63.24(9) Polishes used on floors shall provide a nonslip finish. (III)

63.24(10) Throw or scatter rugs shall not be permitted. (III)

63.24(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

63.24(12) Cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall not be accessible to residents except as indicated in individualized programs of care. (II, III)

63.24(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

481—63.25(135C) Maintenance.

63.25(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be established in writing and available for review by the department. (III)

63.25(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

63.25(3) Draperies and furniture shall be clean and in good repair. (III)

63.25(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

63.25(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electrical Code. (III)

63.25(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

63.25(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)

63.25(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

63.25(9) The facility shall be kept free of flies, other insects, and rodents. (III)

63.25(10) Janitor closet.

a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for over 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and janitor's sink for emptying scrub pails. (III)

481—63.26(135C) Laundry.

63.26(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

63.26(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

63.26(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

63.26(4) Residents' personal laundry shall be marked with an identification. (III)

63.26(5) Bed linens, towels, washcloths, and residents' clothing shall be clean and stain-free. (III)

63.26(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities of over 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

481—63.27(135C) Garbage and waste disposal.

63.27(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

63.27(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

63.27(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

63.27(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

63.27(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—63.28(135C) Buildings, furnishings, and equipment.

63.28(1) *Buildings—general requirements.*

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than 7 feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, 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)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within 7 feet of the floor shall be protected by screen guards of not more than ¼-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of resident's clothing. (III)

j. All stairways in resident-occupied areas shall have substantial handrails on both sides. (III)

k. Each stairway shall have protective barriers. (III)

l. Screens of 16 mesh per square inch shall be provided at all hold-open openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident-occupied areas shall have general lighting switched at the entrance to each room. (III)

63.28(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

d. Night lights may be required in corridors, at stairways, attendant's stations and resident's bedrooms, and hazardous areas with no less than 1 foot-candle throughout the area at all times. (III)

63.28(3) *Dining and living rooms.*

a. Every facility over 15 beds shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 63.28(3) "e" of the rules are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square 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)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably furnished. (III)

(3) When 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)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) When space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

63.28(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

- b.* Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average bed size. (III)
- c.* Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)
- d.* There shall be a comfortable bedside chair per resident bed. The resident's personal wishes shall be considered. (III)
- e.* There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)
- f.* Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)
- g.* Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- h.* There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1 foot 10 inches deep by 1 foot 8 inches wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident's needs. (III)
- i.* Beds shall not be placed with the head of the bed in front of a window or radiator. (III)
- j.* Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)
- k.* Reading lamps shall be provided each resident in the resident's room. (III)
- l.* Each room shall have sufficient accessible mirrors to serve residents' needs. (III)
- m.* Usable floor space of a room shall be no less than 8 feet in any major dimension. (III)
- n.* Bedrooms shall have a minimum of 80 square feet of usable floor space per bed. (III)
- o.* There shall be no more than four residents per room. (III)
- p.* Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

63.28(5) Bath and toilet facilities.

- a.* Provision shall be made for bars to hold individual towels and washcloths. (III)
- b.* In facilities of over 15 beds all lavatories shall have paper towel dispensers and an available supply of soap. (III)
- c.* Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each five residents, and one tub or shower for each ten residents or fraction thereof. (III)
- d.* There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over 15 beds. Separate toilets for the sexes shall be provided. (III)
- e.* Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of 250 pounds for five minutes. (III)
- f.* Each toilet room shall have a door. (III)
- g.* All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)
- h.* Toilet and bath facilities shall have an aggregate outside window area of at least 4 square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)

- i.* Every facility shall provide a toilet with grab bars and lavatory for the public and staff. (III)

63.28(6) 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 in an emergency. (III)

63.28(7) Water supply.

- a.* Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

63.28(8) Sewage system.

a. Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)

b. Private sewage systems shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)

c. Every facility shall have an interior plumbing system complete with flushing device. (III)

63.28(9) Attendant's station. In facilities over 15 beds, an attendant's station with a minimum of 40 square feet shall be provided which is centrally located in the resident area and shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

481—63.29(135C) Family and employee accommodations.

63.29(1) Children under 14 years of age shall not be allowed into the service areas in facilities of more than 15 beds. (III)

63.29(2) The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

63.29(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

63.29(4) 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)

63.29(5) In facilities of more than 15 beds, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—63.30(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

481—63.31(135C) Environment and grounds.

63.31(1) A residential care facility for the intellectually disabled shall be constructed in a neighborhood free from excessive noise, dirt, polluted or odorous air, or similar disturbances. (III)

63.31(2) There shall be an area available for outdoor activities calculated at 25 square feet per licensed bed. (III) Open-air porches may be included in meeting such requirement.

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.32(135C) Supplies.

63.32(1) Linen supplies.

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

63.32(2) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

63.32(3) *General supplies.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

481—63.33(135C) Residents' rights in general.

63.33(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (63.33(2) to 63.33(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

63.33(2) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents' physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

63.33(3) Policies and procedures regarding the use of chemical and physical restraints shall define the use of restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

63.33(4) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

63.33(5) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II)

63.33(6) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. The information must be provided upon admission or in the case of residents already in the facility upon the facility's adoption or amendment of resident right policies.

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf, or blind residents of such changes. (II)

63.33(7) Each resident or responsible party shall be fully informed in a contract as required in rule 481—63.14(135C), prior to or at the time of admission and during the resident's stay, of services available in the facility, and of related charges not covered by the facility's basic per diem rate. (II)

63.33(8) Each resident or responsible party shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated (as documented by a physician in the resident's record). Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services' protection from research risks policy and then only upon the resident's informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident's medical condition and be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either, shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident's condition is contraindicated, this decision and reasons for it shall be documented in the resident's record by the physician. (II)

d. 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 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)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.34(135C) Involuntary discharge or transfer.

63.34(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a.* Medical reasons;
- b.* The resident's welfare or that of other residents;
- c.* Nonpayment for the resident's stay, as described in the contract for the resident's stay; or
- d.* Due to action pursuant to Iowa Code chapter 229. (I, II, III)

63.34(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

63.34(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

63.34(4) *Involuntary discharge or transfer prohibited—payment source.* A resident shall not be transferred or discharged solely because the cost of the resident’s care is being paid under Iowa Code chapter 249A or because the resident’s source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

63.34(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department’s receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department’s designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, the resident’s primary care provider, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation “cc:” and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 63.34(5) “*a*” shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident’s health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, the resident’s primary care provider, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7).

63.34(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident’s file. The notice shall contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

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. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7).
63.34(7) Hearing.

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

63.34(8) Nonpayment. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

63.34(9) Discussion of involuntary transfer or discharge. Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

63.34(10) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.34(10) "b" does not apply if the discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

63.34(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 days must be allowed for an orderly transfer of residents to other facilities.

63.34(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) A resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 63.34(12) "a"(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 63.34(12) "a"(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.34(12) "a," the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

[ARC 1205C, IAB 12/11/13, effective 1/15/14; ARC 1752C, IAB 12/10/14, effective 1/14/15]

481—63.35(135C) Resident rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

63.35(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

63.35(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

- a. Designation of an employee responsible for handling grievances and recommendations. (II)
- b. A method of investigating and assessing the validity of a grievance or recommendation. (II)
- c. Methods of resolving grievances. (II)
- d. Methods of recording grievances and actions taken. (II)

63.35(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency and local law enforcement agency and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—63.36(135C) Financial affairs—management. Each resident, who has not been assigned a guardian or conservator by the court, may manage personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.36(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

63.36(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.36(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident's responsible party shall designate a method of disbursing the resident's funds. (II)

63.36(4) If the facility makes financial transactions on a resident's behalf, the resident must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

63.36(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

63.36(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.37(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. Each resident shall be free from chemical and physical restraints, except in an emergency for the shortest amount of time necessary to protect the resident from injury to the resident or to others, pending the immediate transfer to an appropriate facility. The decision to use restraints on an emergency basis shall be made by the designated charge person, who shall promptly report the action taken to the physician, and the reasons for using restraints shall be documented in the resident's record. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

63.37(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

63.37(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

63.37(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff or as a substitute for program. (II)

63.37(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

63.37(5) and **63.37(6)** Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14 and 135C.24 and Iowa Code chapter 235E.

[ARC 1204C, IAB 12/11/13, effective 1/15/14]

481—63.38(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

63.38(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

63.38(2) Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

63.38(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)

481—63.39(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care for the resident's personal needs. (II)

63.39(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

63.39(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

63.39(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

63.39(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

63.39(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—63.40(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. (II)

63.40(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)

63.40(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)

63.40(3) Residents who perform work for the facility must receive remuneration unless such 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 staff requirements. (II)

481—63.41(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)

63.41(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)

63.41(2) 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:

- a. The resident refuses to see the visitor. (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)

63.41(3) 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)

63.41(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.41(5) Telephones consistent with ANSI standards (405.1134(c)) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

63.41(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.41(7) 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)

63.41(8) 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)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.42(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident's record. (II)

63.42(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

63.42(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.43(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

63.43(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

63.43(2) Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

63.43(3) Any personal clothing or possessions retained by the facility for the resident during the resident's stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of such items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

63.43(4) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

63.43(5) A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—63.44(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident's spouse; if both are residents in the facility, they shall be permitted to share a room, if possible. (II)

63.44(1) The facility shall provide for needed privacy in visits between spouses. (II)

63.44(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)

63.44(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 arrangement would have an adverse effect on the health of the resident. (II)

481—63.45(135C) Choice of physician. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (II)

481—63.46(135C) Incompetent resident.

63.46(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

63.46(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

481—63.47(135C) Specialized license for three- to five-bed facilities. The specialized license is for residential care facilities which serve persons with intellectual disabilities, chronic mental illness and other developmental disabilities having five or fewer residents as specified in Iowa Code section 225C.26. The facility is exempt from Iowa Code section 135.63. For this specialized license, all rules of 481—Chapter 63 apply except those which are deleted or amended, as indicated in subsequent rules.

63.47(1) The provider may apply for a specialized license from the department of inspections and appeals. Before the license is granted, the provider shall meet all of the following requirements:

a. Compliance with program requirements pursuant to Iowa Code chapter 135C and administrative rules relating to residential care facilities adopted by the state board of health, or

standards adopted by the Accreditation Council for Services for Persons with Mental Retardation and Other Developmental Disabilities (1984). The program of care shall emphasize an age-appropriate and least restrictive program.

b. The facility shall be located in areas zoned for single- or multiple-family housing, or be located in an unincorporated area, and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

c. The facility shall be appropriately accessible to residents who have disabilities. (II, III)

d. Written plans shall demonstrate that the facility meets the needs of the residents pursuant to individual program plans meeting age-appropriate and least restrictive program requirements. (II)

e. Written plans shall demonstrate the residents have reasonable access to employment for job-related training, education, generic community resources, or integrated opportunities to promote community interaction. (II)

f. Unless documented as appropriate within the residents' individual program plans, populations with primary diagnosis of chronic mental illness or intellectual disability/developmental disability may not be residents of the same specialized license facility. (II, III)

63.47(2) The housing for persons with intellectual disabilities, chronic mental illness, and other developmental disabilities, developed pursuant to this rule shall be eligible for funding utilized by licensed residential care facilities for the intellectually disabled.

63.47(3) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(4) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(5) The director of the department of inspections and appeals shall appoint a specialized license committee not to exceed nine members. This committee shall monitor the program rules and procedures adopted for this classification of license.

63.47(6) All conditions and criteria in 481—Chapter 63 apply to the specialized license with the exception of the following deletions: 481—63.7(135C), 63.8(2) “*b*,” 63.8(7) “*b*,” 63.13(1) “*l*,” 63.18(1) “*b*”(9), 63.19(1) “*a*,” “*b*,” “*c*,” 63.19(2) “*c*”(1), “*e*,” “*g*,” 63.19(4) “*a*,” “*b*,” “*c*,” “*g*,” “*h*,” “*i*,” “*l*,” “*n*,” “*p*,” “*q*,” “*r*,” “*t*,” 63.19(5) “*b*,” “*c*,” “*d*,” 63.21(1), (2), (3) “*a*” to “*e*,” (4) “*a*,” “*b*,” “*c*”(1) to (3), “*d*,” “*e*,” 63.21(5) “*c*,” 63.23(3) “*c*,” 63.23(4) “*c*,” “*d*,” 63.24(1), (7), (10), 63.25(10) “*b*,” 63.26(1) to (4), (6) “*b*,” 63.27(3) to (5), 63.28(1) “*a*,” “*b*,” “*f*,” “*g*,” “*k*,” “*l*,” “*m*,” “*o*,” 63.28(2) “*c*,” 63.28(3) “*a*,” “*d*,” “*e*,” “*f*”(3), “*g*”(2), 63.28(5) “*b*,” “*i*,” 63.28(9), 63.29(1), (4), (5), 63.33(6) “*d*.”

63.47(7) The following rules in Chapter 63 are amended for this specialized license as follows:

1. 63.3(1) “*a*” and 63.3(2)—Delete all references to 481—Chapter 60.
2. 63.8(1) “*a*”—Add “or qualified mental health professional (III)” after “qualified intellectual disabilities professional”. (III)
3. 63.8(2)—Add “For purposes of the specialized license, the administrator may act as an administrator for not more than three residential care facilities for the intellectually disabled, chronic mentally ill, and developmentally disabled.” (II)
4. 63.9(1)—Add “For purposes of the specialized license there shall be written personnel policies in all facilities to include hours of work and attendance at the education program.” (III)
5. 63.11(1) “*a*”—Delete the words “a managerial role of” in line 2.
6. 63.11(2) “*b*”—Delete the second sentence and “with 15 or less beds” in the third sentence.
7. 63.14(5) “*b*”—Add “or guardian” after “resident” in the first line.
8. 63.17(1)—Add a new paragraph: “v. Current Individual Program Plans (IPP)”.
9. 63.17(5) “*a*”—Add “For the specialized license, a job description shall be in the individual’s personnel file.” (III)
10. 63.19(2) “*b*”—Delete from the end “Recommended daily dietary allowances are:” Also delete subparagraphs (1) to (5).
11. 63.19(2) “*f*”—Delete the second sentence.
12. 63.19(3) “*e*”—Delete “for a minimum of a one-week period” in the first line.
13. 63.19(4) “*m*”—Delete “smooth, washable,” in the second line.
14. 63.19(4) “*o*”—Delete the second sentence.

15. 63.19(4) “s” —Add “and rinse” after “wash” in the first line and then delete the rest of the sentence after “(60°C)”.
16. 63.19(4) “w” —Change “or” to “and” in the first line and delete “,washing, sanitizing, and air-drying”.
17. 63.19(5) “b” —Delete the second sentence.
18. 63.19(5) “f” —Add “during food preparation” after “kitchen”.
19. 63.24(9) —Change “nonslip” to “slip-resistant” in the first sentence.
20. 63.25(1) —Delete the second sentence.
21. 63.28(1) “j” —Change “on both sides” in the first line to “on at least one side”.
22. 63.28(4) “n” —Change to read “Bedrooms shall have a minimum of 60 square feet for double, 80 square feet for single, and 100 square feet physical (wheelchair).” (III)
23. 63.28(4) “o” —Change “four” to “two”.
24. 63.28(5) “c” —Amend to read: “Minimum numbers of toilets and bath facilities shall be one for each five residents.” (III)
25. 63.28(5) “d” —Amend to read: “There shall be a minimum of one bathroom with tub or shower, toilet stool, and lavatory on each floor in the multistory buildings.” (III)
26. 63.28(5) “e” —Amend to read: “Grab bars shall be provided as needed.” (III)
27. 63.33(8) —Change any reference of “responsible party” to “legal guardian”.
28. 63.33(8) “c” —Delete “in the case of a confused or intellectually disabled resident”. Change any reference of “responsible party” to “legal guardian”.
29. 63.33(8) “d” —Change any reference of “responsible party” to “legal guardian”.
30. 63.46(1) —Change any reference of “responsible party” to “legal guardian” and delete the rest of the paragraph after “state law”.

63.47(8) “Qualified mental health professional” is a person who:

- a. Holds a master’s degree from an accredited educational institution with coursework relevant to the position for which the person is hired;
- b. Has at least two years’ relevant experience supervised by a qualified mental health professional in assessing mental health problems and needs of persons in providing appropriate mental health services for those persons;
- c. Holds a current Iowa license when required by Iowa licensure law.

63.47(9) “Intellectual disabilities” as used in this chapter shall also include the chronically mentally ill and the developmentally disabled for purposes of this specialized license.

a. For the specialized license, “persons with intellectual disabilities” means persons with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, manifested during the developmental period.

(1) “General intellectual functioning” is defined as the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning;

(2) “Significantly subaverage functioning” is defined as approximately 70 IQ or below;

(3) “Adaptive behavior” is defined as the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for age and cultural group;

(4) “Developmental period” is defined as the period of time between conception and the eighteenth birthday.

b. For the specialized license, “persons with developmental disabilities” means persons with a severe, chronic disability which:

(1) Is attributable to mental or physical impairment, or a combination of physical and mental impairments;

(2) Is manifested before the person attains the age of 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of services which are of lifelong or extended duration.

c. For the specialized license, "persons with chronic mental illness" means adults aged 18 or older, with persistent mental or emotional disorders that seriously impair their functioning relative to such primary aspects of daily living as personal relations, living arrangement or employment. Persons with chronic mental illness typically meet at least one of the following criteria:

(1) Have undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or in-patient hospitalization);

(2) Have experienced a single episode of continuous, structured supportive residential care other than hospitalization.

In addition, such persons typically meet at least two of the following criteria, on a continuing or intermittent basis for at least two years:

1. Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history;

2. Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help;

3. Show severe inability to establish or maintain a personal social support system;

4. Require help in basic living skills;

5. Exhibit inappropriate social behavior which results in demand for intervention by the mental health or judicial system.

In atypical instances chronically mentally ill persons may vary from the above criteria.

63.47(10) For the specialized license, there shall be implemented an individual program plan (IPP) of goals and objectives for each resident developed using evaluations, assessments and progress reports. (II)

63.47(11) For the specialized license, "age-appropriate" shall mean activities, settings, personal appearance and possessions commensurate with the person's chronological age.

63.47(12) For the specialized license, "least restrictive" shall mean the availability to the person of programs, services and settings that give the greatest opportunity for human development and to associate with and become part of the general society.

63.47(13) "Individual program plan" shall be a written plan for the provision of services to the person and, when appropriate, to the person's family, that is developed and implemented, using an interdisciplinary process, which identifies the person's and, when appropriate, the person's family's functional status, strengths, and needs, and service activities designed to enable a person to maintain or move toward independent functioning. The plan is developed in accordance with the developmental model, which is a service approach that recognizes and assumes the potential for positive change, growth, and sequential development in all people. (II)

a. An individual program plan shall be developed and implemented for each individual accepted for service, regardless of the individual's chronological age or developmental level. (I, II)

b. The interdisciplinary team shall develop the plan. (II) For the purpose of the specialized license, the team shall include:

(1) The person, the person's legal guardian, and the person's family unless the family's participation is contrary to the wishes of the adult person who has not been legally determined to be incompetent; (II, III)

(2) The service coordinator or case manager; (II, III)

(3) All current service providers; and (II, III)

(4) Other persons whose appropriateness may be identified through the diagnosis and evaluation or current reevaluation. (III)

c. The person or the person's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by court. (III)

d. The resident and the facility retain the rights of appeal and due process from the interdisciplinary team decisions. (II, III)

63.47(14) Goals and objectives shall be stated separately and a time frame shall be specified for their achievement. (II, III)

- a.* Each individual enrolled shall have an individual program plan. (II)
- b.* The initial individual program plan shall be developed within 30 calendar days after the individual is enrolled in this service. (II)
- c.* The individual program shall be developed by an appropriately constituted interdisciplinary team. (II)
- d.* The individual program plan shall state specific objectives to reach identified goals and shall identify the individuals responsible for implementation. (II, III)
- e.* Goals and objectives shall be stated separately. (II, III)
- f.* Goals and objectives shall be assigned projected evaluation completion dates and shall be reviewed at least annually. (II, III)
- g.* Goals and objectives shall be expressed in behavioral terms that provide measurable indices of progress. (II)
- h.* Goals and objectives shall be sequenced with a developmental progression appropriate to the individual. (II, III)
- i.* Goals and objectives of the individual program plans shall be assigned priorities by the interdisciplinary team and implemented with documentation of needed resources. (II, III)
- j.* The individual program plan shall be written in terms that are understandable to all concerned. (II, III)

63.47(15) Where implementation is a shared responsibility, the individual program plan shall identify the agencies or persons responsible for delivering the services required. (III)

63.47(16) A review of the individual program plan shall be made at least quarterly by a member or members of the individual's interdisciplinary team, as determined by the team, in order to ensure the continuing implemented appropriateness of the plan and any necessary action to be initiated. (II)

- a.* Problems or changes that call for review of the individual program plan by the team shall be indicated. (II)
- b.* The team shall be convened at least annually to review the individual program plan where problems or changes that call for review by the team are indicated. (II, III)
- c.* The team review shall assess the individual's response to activities designed to achieve the objective stated in the individual program plan. (II, III)
- d.* The team review shall modify activities or objectives as necessary. (II, III)
- e.* The team review shall determine the services that are needed. (II, III)
- f.* The team review shall include consideration of the advisability of continued enrollment or alternative placements. (II, III)

[ARC 0765C, IAB 5/29/13, effective 7/3/13]

481—63.48(135C) County care facilities. Rescinded ARC 0765C, IAB 5/29/13, effective 7/3/13.

481—63.49(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs "a" through "j" of this rule. (I, II, III)

63.49(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a.* Health and safety risks for residents;
- b.* Compatibility of the proposed business or activity with the facility program;
- c.* Noise created by the proposed business or activity;

- d. Odors created by the proposed business or activity;
- e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

63.49(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

63.49(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

481—63.50(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

63.50(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

63.50(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

63.50(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

63.50(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.1, 135C.2(5), 135C.2(6), 135C.6(1), 135C.14(3), 135C.14(5), 135C.14(8), 135C.25, 135C.25(3), 135C.36, 227.4, 235B.1(6), and 235B.1(11) and 1988 Iowa Acts, chapter 1239.

[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]

[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]

[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]

[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]

[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]

[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]

[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]

[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]¹

[Filed 5/15/86, Notice 2/26/86—published 6/4/86, effective 7/9/86]

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]²

[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]

[Filed emergency after Notice 3/12/87, Notice 12/31/86—published 4/8/87, effective 3/12/87]

[Filed 3/12/87, Notice 1/25/87—published 4/8/87, effective 5/13/87]

[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
 [Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88][◇]
 [Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
 [Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
 [Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]³
 [Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]
 [Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
 [Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
 [Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
 [Filed 6/8/90, Notice 1/10/90—published 6/27/90, effective 8/1/90]
 [Filed 7/17/90, Notice 5/2/90—published 8/8/90, effective 9/12/90]
 [Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
 [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
 [Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 3/25/92]⁴
 [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
 [Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
 [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
 [Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
 [Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
 [Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
 [Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
 [Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
 [Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
 [Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
 [Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
 [Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
 [Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
 [Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
 [Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
 [Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
 [Filed ARC 0765C (Notice ARC 0600C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
 [Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
 [Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
 [Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]
 [Editorial change: IAC Supplement 1/21/15]

◇ Two or more ARCs

¹ Effective date of 63.15(2)“a” and “b” delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86.
 Effective date of 63.15(2)“a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAC 6/4/86.

² See IAB, Inspections and Appeals Department.

³ Two ARCs

⁴ Rule 481—63.49(135C), effective 7/1/92.

OBJECTION

At its February 13 meeting the Administrative Rules Review Committee voted the following objection: [Subrules 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b,” 63.21(3)“b,” published IAB 12/13/78]

The committee objects to the amendments to 470* IAC 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b” and 63.21(3)“b,” which strike the phrase “Twenty-five percent of the staffing may be provided by qualified volunteers. The time shall be spent in working with the organized program activity.”, on the grounds these provisions are unreasonable. It is the understanding of the committee these deletions in effect require facilities to employ a person to coordinate recreation activities. It is the feeling of the committee this would result in higher per bed costs without demonstrably improving the services rendered to the patient. Volunteers have always played a major role in health care institutions, and no evidence has been submitted indicating a decline in that role or in public interest in donating time and energy.

These amendments appear in the 12-13-78 IAB, and have been filed under the emergency provisions of chapter 17A, 1979 Code.

*Chapter 57 transferred to Inspections and Appeals[481], IAC 7/15/87.

PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

CHAPTERS 1 to 3

Reserved

CHAPTER 4

BOARD ADMINISTRATIVE PROCESSES

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- 4.3(17A,147,272C) Organization of board and proceedings
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CHAPTER 5

FEES

- 5.1(147,152D) Athletic training license fees
- 5.2(147,158) Barbering license fees
- 5.3(147,154D) Behavioral science license fees
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- 5.5(147,157) Cosmetology arts and sciences license fees
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645—5.1(147,152D) Athletic training license fees. All fees are nonrefundable.

5.1(1) License fee for license to practice athletic training is \$120.

5.1(2) Temporary license fee for license to practice athletic training is \$120.

5.1(3) Biennial license renewal fee for each biennium is \$120.

5.1(4) Late fee for failure to renew before expiration is \$60.

5.1(5) Reactivation fee is \$180.

5.1(6) Duplicate or reissued license certificate or wallet card fee is \$20.

5.1(7) Verification of license fee is \$20.

5.1(8) Returned check fee is \$25.

5.1(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

645—5.2(147,158) Barbering license fees. All fees are nonrefundable.

5.2(1) License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is \$60.

5.2(2) Biennial renewal fee for a barber license or barber instructor license is \$60.

5.2(3) Temporary permit fee is \$12.

5.2(4) Practical examination fee is \$75.

5.2(5) Demonstrator permit fee is \$45 for the first day and \$12 for each day thereafter for which the permit is valid.

5.2(6) Barber school license fee is \$600.

5.2(7) Barber school annual renewal fee is \$300.

5.2(8) Barbershop license fee is \$72.

5.2(9) Biennial renewal fee for a barbershop license is \$72.

5.2(10) Late fee for failure to renew before expiration is \$60.

5.2(11) Reactivation fee for a barber license is \$120.

5.2(12) Reactivation fee for a barbershop license is \$132.

5.2(13) Reactivation fee for a barber school license is \$360.

5.2(14) Duplicate or reissued license certificate or wallet card fee is \$20.

5.2(15) Verification of license fee is \$20.

5.2(16) Returned check fee is \$25.

5.2(17) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 158.

[ARC 8349B, IAB 12/2/09, effective 1/6/10]

645—5.3(147,154D) Behavioral science license fees. All fees are nonrefundable.

5.3(1) License fee for license to practice marital and family therapy or mental health counseling is \$120.

5.3(2) Temporary license fee for license to practice marital and family therapy or mental health counseling is \$120.

5.3(3) Biennial license renewal fee for each biennium is \$120.

5.3(4) Late fee for failure to renew before expiration is \$60.

5.3(5) Reactivation fee is \$180.

5.3(6) Duplicate or reissued license certificate or wallet card fee is \$20.

5.3(7) Verification of license fee is \$20.

5.3(8) Returned check fee is \$25.

5.3(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

[ARC 8152B, IAB 9/23/09, effective 10/28/09]

645—5.4(151) Chiropractic license fees. All fees are nonrefundable.

- 5.4(1) License fee for license to practice chiropractic is \$270.
 - 5.4(2) Fee for issuance of annual temporary certificate is \$120.
 - 5.4(3) Biennial license renewal fee is \$120.
 - 5.4(4) Late fee for failure to renew before the expiration date is \$60.
 - 5.4(5) Reactivation fee is \$180.
 - 5.4(6) Duplicate or reissued license certificate or wallet card fee is \$20.
 - 5.4(7) Fee for verification of license is \$20.
 - 5.4(8) Returned check fee is \$25.
 - 5.4(9) Disciplinary hearing fee is a maximum of \$75.
- This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

645—5.5(147,157) Cosmetology arts and sciences license fees. All fees are nonrefundable.

- 5.5(1) License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is \$60.
- 5.5(2) Biennial license renewal fee for each license for each biennium is \$60.
- 5.5(3) Late fee for failure to renew before expiration is \$60.
- 5.5(4) Reactivation fee for applicants licensed to practice cosmetology is \$120; for salons, \$144; and for schools, \$330.
- 5.5(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.5(6) Fee for verification of license is \$20.
- 5.5(7) Returned check fee is \$25.
- 5.5(8) Disciplinary hearing fee is a maximum of \$75.
- 5.5(9) Fee for license to conduct a school teaching cosmetology arts and sciences is \$600.
- 5.5(10) Fee for renewal of a school license is \$270 annually.
- 5.5(11) Salon license fee is \$84.
- 5.5(12) Biennial license renewal fee for each salon license for each biennium is \$84.
- 5.5(13) Demonstrator and not-for-profit temporary permit fee is \$42 for the first day and \$12 for each day thereafter that the permit is valid.
- 5.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is \$25 for each type of procedure or certified laser product or IPL device.
- 5.5(15) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is \$25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

645—5.6(147,152A) Dietetics license fees. All fees are nonrefundable.

- 5.6(1) License fee for license to practice dietetics, license by endorsement, or license by reciprocity is \$120.
- 5.6(2) Biennial license renewal fee for each biennium is \$120.
- 5.6(3) Late fee for failure to renew before expiration is \$60.
- 5.6(4) Reactivation fee is \$180.
- 5.6(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.6(6) Verification of license fee is \$20.
- 5.6(7) Returned check fee is \$25.
- 5.6(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

645—5.7(147,154A) Hearing aid dispensers license fees. All fees are nonrefundable.

- 5.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is \$156.

5.7(2) Examination fee (check or money order made payable to the International Hearing Society) is \$95.

5.7(3) Renewal of license fee is \$60.

5.7(4) Temporary permit fee is \$42.

5.7(5) Late fee is \$60.

5.7(6) Reactivation fee is \$120.

5.7(7) Duplicate or reissued license certificate or wallet card fee is \$20.

5.7(8) Verification of license fee is \$20.

5.7(9) Returned check fee is \$25.

5.7(10) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapter 154A.

645—5.8(147) Massage therapy license fees. All fees are nonrefundable.

5.8(1) License fee for license to practice massage therapy is \$120.

5.8(2) Biennial license renewal fee for each biennium is \$60.

5.8(3) Temporary license fee for up to one year is \$120.

5.8(4) Late fee for failure to renew before expiration is \$60.

5.8(5) Reactivation fee is \$120.

5.8(6) Duplicate or reissued license certificate or wallet card fee is \$20.

5.8(7) Verification of license fee is \$20.

5.8(8) Returned check fee is \$25.

5.8(9) Disciplinary hearing fee is a maximum of \$75.

5.8(10) Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

645—5.9(147,156) Mortuary science license fees. All fees are nonrefundable.

5.9(1) License fee for license to practice funeral directing is \$120.

5.9(2) Biennial funeral director's license renewal fee for each biennium is \$120.

5.9(3) Late fee for failure to renew before expiration is \$60.

5.9(4) Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

5.9(5) Duplicate or reissued license certificate or wallet card fee is \$20.

5.9(6) Verification of license fee is \$20.

5.9(7) Returned check fee is \$25.

5.9(8) Disciplinary hearing fee is a maximum of \$75.

5.9(9) Funeral establishment or cremation establishment fee is \$90.

5.9(10) Three-year renewal fee of funeral establishment or cremation establishment is \$90.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

645—5.10(147,155) Nursing home administrators license fees. All fees are nonrefundable.

5.10(1) License fee for license to practice nursing home administration is \$120.

5.10(2) Biennial license renewal fee for each license for each biennium is \$60.

5.10(3) Late fee for failure to renew before expiration is \$60.

5.10(4) Reactivation fee is \$120.

5.10(5) Duplicate or reissued license certificate or wallet card fee is \$20.

5.10(6) Verification of license fee is \$20.

5.10(7) Returned check fee is \$25.

5.10(8) Disciplinary hearing fee is a maximum of \$75.

5.10(9) Provisional license fee is \$120.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

645—5.11(147,148B) Occupational therapy license fees. All fees are nonrefundable.

5.11(1) License fee for an OT or OTA license to practice occupational therapy is \$120.

5.11(2) Biennial license renewal fee to practice occupational therapy is \$60.

5.11(3) Biennial license renewal fee for an occupational therapy assistant is \$60.

5.11(4) Late fee for failure to renew before expiration is \$60.

5.11(5) Reactivation fee is \$120.

5.11(6) Duplicate or reissued license certificate or wallet card fee is \$20.

5.11(7) Verification of license fee is \$20.

5.11(8) Returned check fee is \$25.

5.11(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

645—5.12(147,154) Optometry license fees. All fees are nonrefundable.

5.12(1) License fee for license to practice optometry, license by endorsement, or license by reciprocity is \$300.

5.12(2) Biennial license renewal fee for each biennium is \$144.

5.12(3) Late fee for failure to renew before expiration date is \$60.

5.12(4) Reactivation fee is \$204.

5.12(5) Duplicate or reissued license certificate or wallet card fee is \$20.

5.12(6) Verification of license fee is \$20.

5.12(7) Returned check fee is \$25.

5.12(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

645—5.13(147,148A) Physical therapy license fees. All fees are nonrefundable.

5.13(1) License fee for license to practice physical therapy or as a physical therapist assistant is \$120.

5.13(2) Biennial license renewal fee for a physical therapist is \$60.

5.13(3) Biennial license renewal fee for a physical therapist assistant is \$60.

5.13(4) Late fee for failure to renew before expiration is \$60.

5.13(5) Reactivation fee is \$120.

5.13(6) Duplicate or reissued license certificate or wallet card fee is \$20.

5.13(7) Verification of license fee is \$20.

5.13(8) Returned check fee is \$25.

5.13(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

645—5.14(148C) Physician assistants license fees. All fees are nonrefundable.

5.14(1) Application fee for a license is \$120.

5.14(2) Fee for a temporary license is \$120.

5.14(3) Renewal of license fee is \$120.

5.14(4) Late fee for failure to renew before expiration is \$60.

5.14(5) Reactivation fee is \$180.

5.14(6) Duplicate or reissued license certificate or wallet card fee is \$20.

5.14(7) Fee for verification of license is \$20.

5.14(8) Returned check fee is \$25.

5.14(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

645—5.15(147,148F,149) Podiatry license fees. All fees are nonrefundable.

5.15(1) License fee for license to practice podiatry, license by endorsement, or license by reciprocity is \$400.

5.15(2) License fee for temporary license to practice podiatry is \$200.

5.15(3) The fee for a license to practice orthotics, prosthetics, or pedorthics received on or before July 1, 2015, shall be \$600. The fee for a license to practice orthotics, prosthetics, or pedorthics received after July 1, 2015, shall be \$400.

5.15(4) Biennial license renewal fee is \$400 for each biennium.

5.15(5) Reactivation fee is \$460.

5.15(6) Temporary license renewal fee is \$200.

5.15(7) Late fee for failure to renew before expiration is \$60.

5.15(8) Duplicate or reissued license certificate or wallet card fee is \$20.

5.15(9) Verification of license fee is \$20.

5.15(10) Returned check fee is \$25.

5.15(11) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 148F, 149 and 272C.

[ARC 1192C, IAB 11/27/13, effective 1/1/14]

645—5.16(147,154B) Psychology license fees. All fees are nonrefundable.

5.16(1) License fee for license to practice psychology is \$120.

5.16(2) Biennial license renewal fee is \$170.

5.16(3) Late fee for failure to renew before expiration is \$60.

5.16(4) Reactivation fee is \$230.

5.16(5) Duplicate or reissued license certificate or wallet card fee is \$20.

5.16(6) Verification of license fee is \$20.

5.16(7) Returned check fee is \$25.

5.16(8) Disciplinary hearing fee is a maximum of \$75.

5.16(9) Processing fee for exemption to licensure is \$60.

5.16(10) Certification fee for a health service provider is \$60.

5.16(11) Biennial renewal fee for certification as a certified health service provider in psychology is \$60.

5.16(12) Reactivation fee for certification as a certified health service provider in psychology is \$60.

5.16(13) Provisional license fee is \$120.

5.16(14) Provisional license renewal fee is \$170.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C and 2014 Iowa Acts, chapter 1043.

[ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—5.17(147,152B) Respiratory care license fees. All fees are nonrefundable.

5.17(1) Initial or endorsement license fee to practice respiratory care is \$120, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

5.17(2) Biennial license renewal fee for each biennium is \$60.

5.17(3) Late fee for failure to renew before expiration is \$60.

5.17(4) Reactivation fee is \$120, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

5.17(5) Duplicate or reissued license certificate or wallet card fee is \$20.

5.17(6) Verification of license fee is \$20.

5.17(7) Returned check fee is \$25.

5.17(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152B and 272C.

645—5.18(147,154E) Sign language interpreters and transliterators license fees. All fees are nonrefundable.

- 5.18(1) License fee for license to practice interpreting or transliterating is \$120.
- 5.18(2) License fee for temporary license to practice interpreting or transliterating is \$120.
- 5.18(3) Biennial license renewal fee for each biennium is \$120.
- 5.18(4) Late fee for failure to renew before expiration is \$60.
- 5.18(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.18(6) Verification of license fee is \$20.
- 5.18(7) Returned check fee is \$25.
- 5.18(8) Disciplinary hearing fee is a maximum of \$75.
- 5.18(9) Reactivation fee is \$180.

This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

645—5.19(147,154C) Social work license fees. All fees are nonrefundable.

- 5.19(1) License fee for license to practice social work is \$120.
- 5.19(2) Biennial license renewal fee for a license at the bachelor's level is \$72; at the master's level, \$120; and independent level, \$144.
- 5.19(3) Late fee for failure to renew before expiration is \$60.
- 5.19(4) Reactivation fee for the bachelor's level is \$132; for the master's level, \$180; and independent level, \$204.
- 5.19(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.19(6) Verification of license fee is \$20.
- 5.19(7) Returned check fee is \$25.
- 5.19(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

645—5.20(147) Speech pathology and audiology license fees. All fees are nonrefundable.

- 5.20(1) License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is \$120.
- 5.20(2) Biennial license renewal fee for each biennium is \$96.
- 5.20(3) Late fee for failure to renew before expiration is \$60.
- 5.20(4) Reactivation fee is \$156.
- 5.20(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.20(6) Verification of license fee is \$20.
- 5.20(7) Returned check fee is \$25.
- 5.20(8) Disciplinary hearing fee is a maximum of \$75.
- 5.20(9) Temporary clinical license renewal fee is \$60.
- 5.20(10) Temporary permit fee is \$30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

[Filed 3/19/08, Notice 11/21/07—published 4/9/08, effective 5/14/08]

[Filed 12/11/08, Notice 10/8/08—published 1/14/09, effective 2/18/09]

[Filed emergency 12/24/08 after Notice 11/19/08—published 1/14/09, effective 1/1/09]

[Filed ARC 8152B (Notice ARC 7858B, IAB 6/17/09), IAB 9/23/09, effective 10/28/09]

[Filed ARC 8349B (Notice ARC 8085B, IAB 8/26/09), IAB 12/2/09, effective 1/6/10]

[Filed ARC 1192C (Notice ARC 0942C, IAB 8/7/13), IAB 11/27/13, effective 1/1/14]

[Filed ARC 1834C (Notice ARC 1730C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

CHAPTER 19
Reserved

CHAPTER 20
MILITARY SERVICE AND VETERAN RECIPROCITY

645—20.1(85GA,ch1116) Definitions.

“*Board*” means a licensing board within the professional licensure division.

“*License*” or “*licensure*” means any license, registration, certificate, or permit that may be granted by a licensing board within the professional licensure division.

“*Military service*” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“*Military service applicant*” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2). [ARC 1833C, IAB 1/21/15, effective 2/25/15]

645—20.2(85GA,ch1116) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

20.2(1) The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required for submission of an application for military service credit.

20.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

20.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

20.2(4) Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

20.2(5) The board shall grant credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

20.2(6) The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

20.2(7) A military service applicant who is aggrieved by the board’s decision 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 board’s decision. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

20.2(8) The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

[ARC 1833C, IAB 1/21/15, effective 2/25/15]

645—20.3(85GA,ch1116) Veteran reciprocity.

20.3(1) A veteran with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

20.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

20.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

20.3(4) The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are 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.

20.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional 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 veteran with the opportunity to satisfy the examination requirements.

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

c. If a request for a provisional license is denied, the board 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 license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

20.3(6) A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional 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 board's

decision. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

[ARC 1833C, IAB 1/21/15, effective 2/25/15]

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

[Filed ARC 1833C (Notice ARC 1668C, IAB 10/15/14), IAB 1/21/15, effective 2/25/15]

DIETITIANS

CHAPTER 81	LICENSURE OF DIETITIANS
CHAPTER 82	CONTINUING EDUCATION FOR DIETITIANS
CHAPTER 83	DISCIPLINE FOR DIETITIANS

CHAPTER 81
LICENSURE OF DIETITIANS

[Prior to 6/26/02, see 645—Ch 80]

645—81.1(152A) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of dietetics.

“*Consultation*” means the practice of providing professional advice to another dietitian or other professional in a particular case and for a limited time, in affiliation with, and at the request of, a dietitian licensed in this state.

“*Dietetics*” means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and from behavioral and social sciences to achieve and maintain an individual’s health.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a dietitian in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years following initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state.

“*Nutrition assessment*” means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.

“*Nutrition counseling*” means advising and assisting individuals or groups, with consideration of cultural background and socioeconomic status, about appropriate nutritional intake by integrating information from the nutrition assessment with information about food and other sources of nutrients and meal preparation.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—81.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of dietetics to license persons who have the same or similar qualifications as those required in Iowa.

“*Registered dietitian*” means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of the National Commission for Health Certifying Agencies.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Supervision of nonlicensees*” means any of the following: delegation of duties, direct oversight, or indirect oversight of employees or other persons not licensed by the board.

[ARC 9606B, IAB 7/13/11, effective 8/17/11]

645—81.2(152A) Nutrition care. The primary function of dietetic practice is the provision of nutrition care services that shall include:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling concerning health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

645—81.3(152A,272C) Principles. Rescinded IAB 7/13/11, effective 8/17/11.

645—81.4(152A) Requirements for licensure. The following criteria shall apply to licensure:

81.4(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Dietetics, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

81.4(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

81.4(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Dietetics. The fees are nonrefundable.

81.4(4) No application will be considered by the board until:

- a. Official copies of academic transcripts have been sent directly from the school to the board;
- b. Official verification statements have been sent to the board from the didactic and internship or preprofessional practice programs or from the Commission on Dietetic Registration (CDR) to verify completion of the academic and preprofessional practice requirements; and
- c. The applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR). The board will accept the passing score set by CDR. Verification of satisfactory completion may be established by one of the following:

- (1) The applicant sends to the board a notarized copy of the CDR registration card;
- (2) CDR sends an official letter directly to the board to verify that the applicant holds registration status; or
- (3) CDR posts Web-based verification that the applicant holds registration status.

81.4(5) A license is not required for dietitians who are in this state for the purpose of consultation, in accordance with rule 645—81.1(152A), when they are licensed in another state, U.S. territory, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university.

81.4(6) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

[ARC 9606B, IAB 7/13/11, effective 8/17/11]

645—81.5(152A) Educational qualifications.

81.5(1) The applicant shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of study, which meets minimum academic requirements as established by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) and is approved by the board.

81.5(2) A foreign-trained dietitian shall:

a. Provide an official letter sent directly from the Commission on Dietetic Registration (CDR) to the board to verify that the applicant has met the minimum academic and didactic program requirements of CDR. Foreign degree equivalency evaluation requirements of the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) are listed on the ACEND Web site at: <http://www.eatright.org/ACEND/content.aspx?id=241>; and

b. Provide evidence of meeting all other requirements in these rules.
[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 1835C, IAB 1/21/15, effective 2/25/15]

645—81.6(152A) Supervised experience. The applicant shall complete an accredited competency-based supervised experience program approved by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND).
[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 1835C, IAB 1/21/15, effective 2/25/15]

645—81.7(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides a notarized copy of the Commission on Dietetic Registration (CDR) registration card or an alternate form of verification of passing the registration examination, as stated in 81.4(4)“c”; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:
 - Licensee’s name;
 - Date of initial licensure;
 - Current licensure status; and
 - Any disciplinary action taken against the license.

[ARC 9606B, IAB 7/13/11, effective 8/17/11]

645—81.8(152A) Licensure by reciprocal agreement. Rescinded IAB 1/14/09, effective 2/18/09.

645—81.9(152A) License renewal.

81.9(1) The biennial license renewal period for a license to practice dietetics shall begin on the sixteenth day of the licensee’s birth month and end on the fifteenth day of the licensee’s birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

81.9(2) An initial license issued by the board may be valid for an 18- to 29-month period. When an initial license is renewed, it will be placed on a two-year renewal period identified in subrule 81.9(1).

81.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—82.2(152A) and the mandatory reporting requirements of subrule 81.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

81.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

Training may be completed through separate courses as identified in paragraphs “*a*” and “*b*” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 82.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e.*”

81.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

81.9(6) A person licensed to practice dietetics shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

81.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 84.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

81.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

81.9(9) Renewal of a reactivated license. A licensee who reactivates the license in accordance with rule 645—81.15(17A,147,272C) will not be required to renew the license until the next renewal two years later if the license is reactivated within six months prior to the license renewal date.

[ARC 9606B, IAB 7/13/11, effective 8/17/11]

645—81.10(272C) Exemptions for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—81.11(147) Duplicate certificate or wallet card. Rescinded IAB 1/14/09, effective 2/18/09.

645—81.12(147) Reissued certificate or wallet card. Rescinded IAB 1/14/09, effective 2/18/09.

645—81.13(272C) Lapsed licenses. Rescinded IAB 7/6/05, effective 8/10/05.

645—81.14(17A,147,272C) License denial. Rescinded IAB 1/14/09, effective 2/18/09.

645—81.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

81.15(1) Submit a reactivation application on a form provided by the board.

81.15(2) Pay the reactivation fee that is due as specified in 645—subrule 84.1(4).

81.15(3) Provide verification of current competence to practice dietetics by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

645—81.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 81.15(17A,147,272C) prior to practicing dietetics in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152A and 272C.

[Filed emergency 4/4/86—published 4/23/86, effective 4/4/86]

[Filed 2/17/87, Notice 10/8/86—published 3/11/87, effective 4/15/87]

[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 10/27/88, Notice 8/24/88—published 11/16/88, effective 12/21/88]

[Filed 9/29/89, Notice 7/26/89—published 10/18/89, effective 11/22/89]

[Filed 5/11/90, Notice 4/4/90—published 5/30/90, effective 7/4/90]

[Filed 10/11/91, Notice 8/21/91—published 10/30/91, effective 12/4/91]

[Filed 4/23/92, Notice 3/4/92—published 5/13/92, effective 6/17/92]

[Filed emergency 7/6/92—published 7/22/92, effective 7/6/92]

[Filed 4/7/95, Notice 1/4/95—published 4/26/95, effective 5/31/95]

[Filed 11/25/98, Notice 10/21/98—published 12/16/98, effective 1/20/99]

[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]

[Filed 12/23/99, Notice 10/6/99—published 1/12/00, effective 2/16/00]

[Filed 10/13/00, Notice 8/23/00—published 11/1/00, effective 12/6/00]

[Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]

[Filed 6/7/02, Notice 4/3/02—published 6/26/02, effective 7/31/02]

[Filed 6/19/03, Notice 4/2/03—published 7/9/03, effective 8/13/03]

[Filed 6/17/04, Notice 3/31/04—published 7/7/04, effective 8/11/04]

[Filed 6/15/05, Notice 3/30/05—published 7/6/05, effective 8/10/05]

[Filed 12/2/05, Notice 10/12/05—published 1/4/06, effective 2/8/06]

[Filed 12/11/08, Notice 7/30/08—published 1/14/09, effective 2/18/09]

[Filed ARC 9606B (Notice ARC 9426B, IAB 3/9/11), IAB 7/13/11, effective 8/17/11]

[Filed ARC 1835C (Notice ARC 1728C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

CHAPTER 83
DISCIPLINE FOR DIETITIANS
[Prior to 9/19/01, see 645—80.100(152A,272C)]
[Prior to 6/26/02, see 645—Ch 82]

645—83.1(152A) Definitions.

“*Board*” means the board of dietetics.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a dietitian in Iowa.

645—83.2(152A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—83.3(152A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

83.2(1) Failure to comply with the Academy of Nutrition and Dietetics/Commission on Dietetic Registration, Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues, effective January 1, 2010, hereby adopted by reference. Copies may be obtained from the Academy of Nutrition and Dietetics/Commission on Dietetic Registration Web site at <http://www.eatright.org/codeofethics/>.

83.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

- a. An intentional perversion of the truth in making application for a license to practice in this state;
- b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or
- c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

83.2(3) Professional incompetence. Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other dietitians in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average dietitian acting in the same or similar circumstances.
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed dietitians in this state.

83.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of dietetics or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

83.2(5) Practice outside the scope of the profession.

83.2(6) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

83.2(7) Habitual intoxication or addiction to the use of drugs.

- a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
- b. The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

83.2(8) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

83.2(9) Falsification of client or patient records.

83.2(10) Acceptance of any fee by fraud or misrepresentation.

83.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the licensee's ability to safely and skillfully practice the profession.

83.2(12) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

83.2(13) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of dietetics.

83.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

83.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of dietetics in another state, district, territory or country.

83.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

83.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

83.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

83.2(19) Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

83.2(20) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

83.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

83.2(22) Failure to pay costs assessed in any disciplinary action.

83.2(23) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

83.2(24) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

83.2(25) Knowingly aiding, assisting, or advising a person to unlawfully practice dietetics.

83.2(26) Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: www.idph.state.ia.us/licensure.

83.2(27) Representing oneself as a licensed dietitian when one's license has been suspended or revoked, or when one's license is on inactive status.

83.2(28) Permitting another person to use the licensee's license for any purpose.

83.2(29) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

83.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient or client.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

83.2(31) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

83.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 0022C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter); ARC 1835C, IAB 1/21/15, effective 2/25/15]

645—83.3(152A,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—83.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—83.5(152A) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 1/14/09, effective 2/18/09.

These rules are intended to implement Iowa Code chapters 147, 152A and 272C.

[Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]

[Filed 6/7/02, Notice 4/3/02—published 6/26/02, effective 7/31/02]

[Filed 6/19/03, Notice 4/2/03—published 7/9/03, effective 8/13/03]

[Filed 6/15/05, Notice 3/30/05—published 7/6/05, effective 8/10/05]

[Filed 12/2/05, Notice 10/12/05—published 1/4/06, effective 2/8/06]

[Filed 3/3/06, Notice 1/4/06—published 3/29/06, effective 5/3/06]

[Filed 12/11/08, Notice 7/30/08—published 1/14/09, effective 2/18/09]

[Filed ARC 9606B (Notice ARC 9426B, IAB 3/9/11), IAB 7/13/11, effective 8/17/11]

[Filed ARC 0022C (Notice ARC 9799B, IAB 10/5/11), IAB 2/22/12, effective 3/28/12]¹

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 1835C (Notice ARC 1728C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

¹ March 28, 2012, effective date of 83.2(12) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

PSYCHOLOGISTS

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CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of psychology.

“*Certified health service provider in psychology*” means a person who works in a clinical setting, is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another state.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

“*Organized health service training program*” means a training program designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is ensuring breadth and quality of training.

“*Provisional license*” means a license issued to a person who has met the educational qualifications for licensure and is engaged in professional experience under supervision that meets the requirements of rules 645—240.1(154B), 645—240.6(154B) and 645—240.9(154B).

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—240.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice psychology to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of psychology to license persons who have the same or similar qualifications to those required in Iowa.

“*Recognized health service setting*” means a setting in which the delivery of direct preventive, assessment, and therapeutic intervention services are provided to individuals whose growth, adjustment or functioning is actually impaired or is demonstrably at high risk of impairment. The delivery of the aforementioned services includes, but is not limited to, the diagnosis or evaluation and treatment of mental illness and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Supervisor” means a licensed psychologist who during the time in which supervision is provided, is actively licensed in the jurisdiction where the supervision occurs.

“Testing service” means Professional Examination Service (PES).
[ARC 9937B, IAB 12/28/11, effective 2/1/12; ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—240.2(154B) Requirements for licensure.

240.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Each application shall be accompanied by the appropriate fees payable to the Board of Psychology. The fees are nonrefundable.

d. Except as otherwise stated in these rules, no application will be considered by the board until:

(1) Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

(2) Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors.

e. An applicant shall successfully pass the national examination.

f. The applicant shall have the national examination score sent directly from the testing service to the board.

g. Rescinded IAB 9/24/08, effective 10/29/08.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

240.2(2) and 240.2(3) Rescinded IAB 9/4/02, effective 10/9/02.

[ARC 1029C, IAB 9/18/13, effective 10/23/13]

645—240.3(154B) Educational qualifications. A new applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.

240.3(2) Rescinded IAB 9/24/08, effective 10/29/08.

240.3(3) Unless otherwise stated in these rules, at the time of an applicant’s graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology; or

b. The applicant must hold a specialty diploma by examination from the American Board of Professional Psychology.

240.3(4) Rescinded IAB 9/18/13, effective 10/23/13.

240.3(5) Foreign-trained psychologists shall:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Providers in Psychology, 1120 G Street NW, Suite 330, Washington, D.C. 20005, telephone (202)783-7663, Web site www.nationalregister.org, or by an evaluation service with membership in the National Association of Credentials Evaluation Services, Inc., at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in 240.3(3).

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

c. Submit evidence of meeting all other requirements for licensure stated in these rules.

d. Receive a final determination from the board regarding the application for licensure.

[ARC 9937B, IAB 12/28/11, effective 2/1/12; ARC 1029C, IAB 9/18/13, effective 10/23/13]

645—240.4(154B) Examination requirements. An applicant must pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrule 240.2(1), paragraphs “*a*” to “*c*”;

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology; and

c. Provide the completed supervision registration form according to the instructions on the form.

240.4(2) Notification of an applicant’s eligibility for the examination shall be sent by the board office to the testing service.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology shall mail examination results to the applicant.

240.4(5) Rescinded IAB 9/24/08, effective 10/29/08.

[ARC 1029C, IAB 9/18/13, effective 10/23/13]

645—240.5(154B) Title designations.

240.5(1) Applicants for licensure who have met educational requirements but have not yet passed the EPPP may be designated “psychology associate” or “associate in psychology.” The title “psychology associate” or “associate in psychology” shall not be used except in the person’s employment and supervision that meet the requirements of subrules 240.6(1) and 240.6(2).

240.5(2) Applicants for licensure who have passed the EPPP and who are fulfilling the experience requirements specified herein for licensure may be designated “psychology resident” or “resident in psychology.” The designation of “resident” shall not be used except in the employment and supervised experience that meet the requirements of subrules 240.6(1) and 240.6(2).

240.5(3) In addition to the title designations set forth in subrules 240.5(1) and 240.5(2), persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “associate” or “resident” designation.

[ARC 9937B, IAB 12/28/11, effective 2/1/12; ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—240.6(154B) Supervised professional experience.

240.6(1) The supervised professional experience shall:

a. Be a minimum of one year on a full- or part-time basis for no less than 1500 hours, or be a minimum of 1500 hours that are completed in no less than 10 months;

b. Apply the principles of psychology;

c. Be supervised by a licensed psychologist in accordance with subrule 240.6(2) and rule 645—240.9(154B);

d. Be performed competently as attested to by the supervisor; and

e. Have the fees and receipt of payment schedule remain the sole domain of the employing agency or supervising psychologist.

240.6(2) Requirements.

a. To meet the requirements of the supervised professional experience, the supervisee must:

(1) Meet face to face and individually with the supervisor during each week in which experience hours are accrued, for no less than a total of 45 hours during the period of supervised professional experience;

(2) Have training that is appropriate to the functions to be performed;

(3) Work in the same physical setting as the supervisor unless a completed off-site supervision form is submitted to and approved by the board;

(4) Offer work in the name of the supervising psychologist;

(5) Begin the experience after all academic requirements for the doctoral degree are met and when all degree requirements are verified in writing;

(6) Not apply professional employment that occurs prior to meeting the doctoral academic requirements to the supervised professional experience; and

(7) Have the background, training, and experience that is appropriate to the functions performed.

b. To meet the requirements of the supervised professional experience, the supervisor must:

(1) Be a licensed psychologist as specified in rule 645—240.1(154B);

(2) Complete the supervision form provided by the board;

(3) Meet face to face and individually with the supervisee during each week in which experience hours are accrued, for no less than a total of 45 hours during the period of supervised professional experience;

(4) Provide training that is appropriate to the functions to be performed;

(5) Work in the same physical setting as the supervisee unless a completed off-site supervision form is submitted to, and approved by the board;

(6) Have work offered in the name of the supervising psychologist;

(7) Have no more than three full-time persons associated with the supervisor as listed on the supervisor report form obtained from the board;

(8) Not provide group supervision as part of the 45 hours required for individual supervision;

(9) Not supervise any psychological practice or permit the supervisor's supervisee to engage in any psychological practice which the supervisor cannot perform competently; and

(10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee.

240.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy the educational provisions of the law. For example, employment experiences which are part of the required preparation for the doctoral degree will be applicable only to the doctoral degree requirements and may not be simultaneously offered to satisfy the supervised professional experience requirement.

240.6(4) Professional employment experience acquired by the applicant between the time all requirements were fulfilled for the doctoral degree and the time of the actual conferral of the degree may be credited toward the professional employment experience requirements for licensing, provided that the date of completion of all degree requirements is verified in writing by an appropriate academic official. Verification must come directly to the board from the academic official.

[ARC 9937B, IAB 12/28/11, effective 2/1/12; ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—240.7(154B) Certified health service provider in psychology.

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least two years of clinical experience in a recognized health service setting or meet the standards of the National Register of Health Service Providers in Psychology. Two years of clinical experience means two years of supervised experience in health service in psychology, of which at least one year is in an organized health service training program as defined in these rules and one year is in a recognized health service setting as defined in these rules that meets the requirements for supervised professional experience stated in subrules 240.6(1) and 240.6(2).

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Psychology, Professional Licensure

Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

- (1) Considered invalid and shall be destroyed; or
- (2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Submit with the application the health service provider fee payable to the Board of Psychology. The fee is nonrefundable.

d. Renew the certificate biennially at the same time as the psychology license renewal fees are due.

240.7(2) Requirements of the organized health service training program. Internship programs in professional psychology that are accredited by the Commission on Accreditation of the American Psychological Association (APA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not APA-approved or APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

- a.* Provides the intern with a planned, programmed sequence of training experiences.
- b.* Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.
- c.* Has two or more doctoral-level psychologists on the staff who serve as primary supervisors and are actively licensed by the board of psychology in the jurisdiction in which the program exists.
- d.* Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carry clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.
- e.* Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.
- f.* Ensures that trainees have a minimum of 375 hours of direct patient contact.
- g.* Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.
- h.* Has training that is at the postclerkship, postpracticum, and postexternship level.
- i.* Has a minimum of two interns at the internship level of training during any period of training.
- j.* Designates for internship-level trainees titles such as “intern,” “resident,” “fellow,” or other designation of trainee status.
- k.* Has a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees’ work and is made available to prospective interns.
- l.* Provides a minimum of 1500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

[ARC 9937B, IAB 12/28/11, effective 2/1/12]

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file a summary of intent to practice and provide verification of the license from the other jurisdiction. The summary

shall be submitted to and approved by the board prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

The summary and supporting documentation shall be accompanied by a check or money order for the processing fee for exemption to licensure pursuant to 645—Chapter 243. The fee is nonrefundable and shall be submitted payable to the Board of Psychology.

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

2. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.

3. Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.

4. Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology.

5. Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

6. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.

7. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

8. Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

11. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

12. Maintain an ongoing record of supervision which details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

13. Countersign all written reports and communications as "Reviewed and Approved" by the supervising psychologist.

645—240.10(147) Licensure by endorsement. An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB). Applicants providing certification are deemed to have met the requirements stated in paragraphs 240.10(3) "a" to "c." The board may license by endorsement any other applicant who:

a. Provides one of the following: the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

b. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

c. Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

- (1) Provides:
 1. Official copies of academic transcripts that have been sent directly from the school; and
 2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Providers in Psychology.

2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

[ARC 9937B, IAB 12/28/11, effective 2/1/12; ARC 1029C, IAB 9/18/13, effective 10/23/13]

645—240.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure in psychology.

645—240.12(85GA, ch1043) Requirements for provisional licensure. A provisional license shall not be granted unless the applicant has submitted a completed licensure application and the required licensure application fee.

240.12(1) An applicant for a provisional license shall provide the following:

a. A completed provisional license application. Applications are obtained and submitted via the board's Web site at <https://ibpllicense.iowa.gov/>.

b. The provisional application fee payable to the Board of Psychology. The fee is nonrefundable.

240.12(2) The following documents must be received by the board office:

a. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in 645—240.3(154B) are met; and

b. A completed supervision plan on the prescribed board form, signed by the applicant's supervisors who meet the definition of "supervisor" in rule 645—240.1(154B). A change in a supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

240.12(3) The provisional license is effective for two years from the date of issuance. A provisional license may be renewed one time for a period of two years upon submission of the following:

a. A provisional license renewal application;

b. A provisional license renewal fee; and

c. A current supervision plan as required in these rules.

[ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—240.13(147) License renewal.

240.13(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The licensee is

responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

240.13(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.13(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.13(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

240.13(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 241.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

240.13(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.13(6) A person licensed to practice as a psychologist shall keep the person's license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

240.13(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 243.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

b. No continuing education shall be required.

240.13(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9937B, IAB 12/28/11, effective 2/1/12; ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—240.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.14(1) Submit a reactivation application on a form provided by the board.

240.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.14(3) Provide verification of current competence to practice as a psychologist or health service provider in psychology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

[ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—240.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—240.14(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

[ARC 1834C, IAB 1/21/15, effective 2/25/15]

These rules are intended to implement Iowa Code chapters 17A, 147, and 272C.

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]

[Filed 2/15/02, Notice 12/12/01—published 3/6/02, effective 4/10/02]

[Filed 8/16/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]

[Filed 8/27/03, Notice 5/28/03—published 9/17/03, effective 10/22/03]

[Filed 2/10/04, Notice 11/26/03—published 3/3/04, effective 4/7/04]

[Filed 11/12/04, Notice 7/21/04—published 12/8/04, effective 1/12/05]

[Filed 11/12/04, Notice 9/1/04—published 12/8/04, effective 1/12/05]

[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◇]

[Filed 11/9/05, Notice 8/31/05—published 12/7/05, effective 1/11/06]

[Filed 2/3/06, Notice 12/7/05—published 3/1/06, effective 4/5/06]

[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

[Filed ARC 9937B (Notice ARC 9673B, IAB 8/10/11), IAB 12/28/11, effective 2/1/12]

[Filed ARC 1029C (Notice ARC 0834C, IAB 7/10/13), IAB 9/18/13, effective 10/23/13]

[Filed ARC 1834C (Notice ARC 1730C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

[◇] Two or more ARCs

CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of psychology.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a psychologist in the state of Iowa.

“*Practice of psychology*” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

241.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—241.3(154B,272C) Standards.

241.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

241.3(2) Specific criteria.

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members appointed to a first term beginning May 1, 2013, or later, a maximum of 2 of these hours may be obtained by providing service as a member of the board as follows:

- (1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or
- (2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

c. Effective July 1, 2014, a licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

[ARC 1029C, IAB 9/18/13, effective 10/23/13; ARC 1834C, IAB 1/21/15, effective 2/25/15]

645—241.4(154B,272C) Audit of continuing education report. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.5(154B,272C) Automatic exemption. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.6(154B,272C) Continuing education exemption for disability or illness. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.7(154B,272C) Grounds for disciplinary action. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.8(272C) Continuing education waiver for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.10(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154B.

[Filed 9/1/00, Notice 7/12/00—published 9/20/00, effective 10/25/00]

[Filed 6/21/01, Notice 3/7/01—published 7/11/01, effective 8/15/01]

[Filed 8/5/05, Notice 6/8/05—published 8/31/05, effective 10/5/05][◊]

[Filed 9/5/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]

[Filed ARC 1029C (Notice ARC 0834C, IAB 7/10/13), IAB 9/18/13, effective 10/23/13]

[Filed ARC 1834C (Notice ARC 1730C, IAB 11/12/14), IAB 1/21/15, effective 2/25/15]

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SECRETARY OF STATE[721]DIVISION I
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CHAPTER 21
ELECTION FORMS AND INSTRUCTIONS

[Prior to 7/13/88, see Secretary of State[750], Ch 11]

DIVISION I
GENERAL ADMINISTRATIVE PROCEDURES

721—21.1(47) Emergency election procedures. The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural or other disaster or extremely inclement weather has occurred. The state commissioner may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

21.1(1) Definitions.

“*Commissioner*” means the county commissioner of elections.

“*Election contest court*” means any of the courts specified in Iowa Code sections 57.1, 58.4, 61.1, 62.1 and 376.10.

“*Extremely inclement weather*” means a natural occurrence, such as a rainstorm, windstorm, ice storm, blizzard, tornado or other weather conditions, which makes travel extremely dangerous or which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*Natural disaster*” means a natural occurrence, such as a fire, flood, blizzard, earthquake, tornado, windstorm, ice storm, or other events, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*Other disaster*” means an occurrence caused by machines or people, such as fire, hazardous substance or nuclear power plant accident or incident, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*State commissioner*” means the state commissioner of elections.

21.1(2) Notice of natural or other disaster or extremely inclement weather. The county commissioner of elections, or the commissioner’s designee, may notify the state commissioner of elections that due to a natural or other disaster or extremely inclement weather an election cannot safely be conducted in the time or place for which the election is scheduled to be held. If the commissioner or the commissioner’s designee is unable to transmit notice of the hazardous conditions, the notice may be given by any elected county official. Verification of the commissioner’s agreement with the severity of the conditions and the danger to the election process shall be transmitted to the state commissioner as soon as possible. Notice may be given by telephone or by facsimile machine, but a signed notice shall also be delivered to the state commissioner.

21.1(3) Declaration of emergency due to natural or other disaster or extremely inclement weather. After receiving notice of hazardous conditions, the state commissioner of elections, or the state commissioner’s designee, may declare that an emergency exists in the affected precinct or precincts. A copy of the declaration of the emergency shall be provided to the commissioner.

21.1(4) Emergency modifications to conduct of elections. When the state commissioner of elections has declared that an emergency exists due to a natural or other disaster or to extremely inclement weather, the county commissioner of elections, or the commissioner’s designee, shall consult with the state commissioner to develop a plan to conduct the election under the emergency conditions. All modifications to the usual method for conducting elections shall be approved in advance by the state commissioner unless prior approval is impossible to obtain.

Modifications may be made to the method for conducting the election including relocation of the polling place, postponement of the hour of opening the polls, postponement of the date of the election if no candidates for federal offices are on the ballot, reduction in the number of precinct election officials in nonpartisan elections, or other reasonable and prudent modifications that will permit the election to be conducted.

21.1(5) *Relocation of polling place.* The substitute polling place shall be as close as possible to the usual polling place and shall be within the same precinct if possible. Preference shall be given to buildings which are accessible to the elderly and disabled. Buildings supported by taxation shall be made available without charge by the authorities responsible for their administration. If it is necessary, more than one precinct may be located in the same room.

A notice of the location of the substitute polling place shall be posted on the door of the former polling place not later than one hour before the scheduled time for opening the polls or as soon as possible. If it is unsafe or impossible to post the sign on the door of the former polling place, the notice shall be posted in some other visible place at or near the site of the former polling place. If time permits, notice of the relocation of the polling place shall be published in the same newspaper in which notice of election was published, otherwise notice of relocation may be published in any newspaper of general circulation in the political subdivision which will appear on or before election day. The commissioner shall inform all broadcast media and print news organizations serving the jurisdiction of the modifications.

21.1(6) *Postponement of election.* An election, other than an election at which a federal office appears on the ballot, may be postponed until the following Tuesday. If the election involves more than one precinct, the postponement must include all precincts within the political subdivision. If the election is postponed, ballots shall not be reprinted to reflect the modification in the election date. The date of the close of voter preregistration by mail for the election shall not be extended. Precinct election registers prepared for the original election date may be used or reprinted at the commissioner's discretion.

On the day that the postponed election is actually held, all election day procedures must be repeated.

21.1(7) *Absentee voting in postponed elections.* Absentee ballots shall be delivered to voters pursuant to Iowa Code section 53.22 until the date the election is actually held. Absentee ballots shall be accepted at the commissioner's office until the hour the polls close on the date the election is held. Absentee ballots which are postmarked no later than the day before the election is actually held shall be accepted if received no later than the time prescribed by the Iowa Code for the usual conduct of the election. The time shall be calculated from the date on which the election is held, not the date for which the election was originally scheduled. However, if absentee ballots have been tabulated before the election is postponed, the absentee ballots shall be sealed in an envelope by the absentee and special voters precinct board and stored securely until the date the election is actually held. The sealed envelopes shall be opened by the absentee and special voters precinct board on the date the election is actually held, counters on the tabulating equipment (if any) shall be reset to zero, and all absentee ballots tabulated on the original election date shall be retabulated.

21.1(8) *Absentee and special voters precinct board in postponed elections.* The absentee and special voters precinct board shall meet to consider provisional ballots at the times specified in Iowa Code sections 50.22 and 52.23, calculated from the date the election is held. No absentee ballots shall be counted until the date the election is held.

21.1(9) *Canvass of votes in postponed elections.* The canvass of votes shall also be rescheduled for one week after the originally scheduled canvass date.

21.1(10) *Postponements made on election day.* If the emergency is declared while the polls are open and the decision is made to postpone the election, each precinct polling place in the political subdivision shall be notified to close its doors and to halt all voting immediately. People present in the polling place who are waiting to vote shall not be given ballots. People who have received and marked their ballots shall deposit them in the ballot box; unmarked ballots may be returned to the precinct election officials.

The precinct election officials shall seal all ballots which were cast before the declaration of the emergency in secure containers. The containers shall be clearly marked as ballots from the postponed election. If it is safe to do so, the ballot containers, election register, and other election supplies shall be transported to the commissioner's office. The ballots shall be stored in a secure place. If it is unsafe to travel to the commissioner's office, the chairperson of the precinct election board shall see that the ballots and the election register are securely stored until it is safe to return them to the commissioner. If no contest is pending six months after the canvass for the election is completed, the unopened, sealed ballot containers shall be destroyed.

If automatic tabulating equipment is used, the automatic tabulating equipment shall be closed and sealed without printing the results. Before the date the election is held, the automatic tabulating equipment shall be reset to zero. Documents showing the progress of the count, if any, shall be sealed in an envelope and stored. No one shall reveal the progress of the count. After six months, the sealed envelope containing the vote totals shall be destroyed if no contest is pending.

21.1(11) *Records kept.* The state commissioner of elections shall maintain records of each emergency declaration. The records of emergency declarations for federal elections shall be kept for 22 months, and records for all other elections shall be kept for six months following the election. The records shall include the following information:

- a. The county in which the emergency occurred.
- b. The date and time the emergency declaration was requested.
- c. The name and title of the person making the request.
- d. Name and date of the election affected.
- e. The jurisdiction for which the election is to be conducted (school, city, county, or other).
- f. The number of precincts in the jurisdiction.
- g. The number of precincts affected by the emergency.
- h. The nature of the emergency, i.e., natural or other disaster, or extremely inclement weather.
- i. The date or dates of the occurrence of the natural or other disaster or extremely inclement weather.
- j. Conditions affecting the conduct of the election.
- k. Whether the polling places may safely be opened on time.
- l. Action taken: such as moving the polling place, change voting system, postpone election until the following Tuesday.
- m. Method to be used to inform the public of changes made in the election procedure.
- n. The signature of the state commissioner or the state commissioner's designee who was responsible for declaring the emergency.

21.1(12) *Federal elections.*

a. If an emergency occurs that will adversely affect the conduct of an election at which candidates for federal office will appear on the ballot, the election shall not be postponed or delayed. Emergency measures shall be limited to relocation of polling places, modification of the method of voting, reduction of the number of precinct election officials at a precinct and other modifications of prescribed election procedures which will enable the election to be conducted on the date and during the hours required by law.

The primary election held in June of even-numbered years and the general election held in November of even-numbered years shall not be postponed. Special elections called by the governor pursuant to Iowa Code section 69.14 shall not be postponed unless no federal office appears on the ballot.

b. If a federal or state court order extends the time established for closing the polls pursuant to Iowa Code section 49.73, any person who votes after the statutory hour for closing the polls shall vote only by casting a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballots cast after the statutory hour for closing the polls shall be sealed in a separate envelope from provisional ballots cast during the statutory polling hours. The absentee and special voters precinct board shall tabulate and report the results of the two sets of provisional ballots separately.

21.1(13) *Military emergencies.* A voter who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, "Absent Voting by Armed Forces," may return an absentee ballot via electronic transmission only if the voter is located in an area designated by the U.S. Department of Defense to be an imminent danger pay area or if the voter is an active member of the army, navy, marine corps, merchant marine, coast guard, air force or Iowa national guard and is located outside the United States or any of its territories. Procedures for the return of absentee ballots by electronic transmission are described in subrule 21.320(4).

21.1(14) *Election contest emergency.* If an election contest court finds that there were errors in the conduct of an election which make it impossible to determine the result of the election, the contest court shall notify the state commissioner of elections of its finding. The state commissioner shall order a repeat

election to be held. The repeat election date shall be set by the state commissioner. The repeat election shall be conducted under the state commissioner's supervision.

The repeat election shall be held at the earliest possible time, but it shall not be held earlier than 14 days after the date the election was set aside. Voter registration, publication, equipment testing and other applicable deadlines shall be calculated from the date of the repeat election.

The repeat election shall be conducted under the same procedures required for the election that was set aside, except that all known errors in preparation and procedure shall be corrected. The nominations from the initial election shall be used in the repeat election unless the contest court specifically rejects the initial nomination process in its findings. Precinct election officials for the repeat election may be replaced at the discretion of the auditor.

The following materials prepared for the original election shall be used or reconstructed for the repeat election:

Ballots (showing the date of repeat election). This may be stamped on ballots printed for the original election.

Notice of election (showing the date of repeat election).

This rule is intended to implement Iowa Code section 47.1.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9989B, IAB 2/8/12, effective 1/17/12]

721—21.2(47) Electronic submission of absentee ballot applications and affidavits of candidacy. Absentee ballot applications and affidavits of candidacy may be submitted electronically using either fax or E-mail.

21.2(1) *Electronic copies of absentee ballot applications and affidavits of candidacy accepted for filing.* Assuming that all other legal requirements are met, absentee ballot applications and affidavits of candidacy required by Iowa Code chapters 43, 44, 45, 161A, 260C, 277, 376 and 420 may be submitted electronically by either fax or E-mail if presented to the appropriate filing officer as an exact copy of the original and if the submission is in compliance with subrule 21.2(2).

21.2(2) *Original absentee ballot applications.* The original absentee ballot application submitted electronically shall also be mailed or delivered to the commissioner. If mailed, the envelope bearing the original absentee ballot application shall be postmarked not later than the Friday before the election. This subrule shall not apply to documents submitted electronically by UOCAVA voters pursuant to rule 721—21.320(53).

a. The voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the original absentee ballot application which was filed electronically is not received by the time the polls close on election day.

b. The voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the postmark on the envelope containing the original absentee ballot application is either illegible or later than the Friday before the election.

21.2(3) *Original affidavits of candidacy.* The original copy of an affidavit of candidacy submitted electronically shall also be filed with the appropriate commissioner. The envelope bearing the original affidavit (if any) shall be postmarked not later than the last day to file the document.

a. The filing shall be void if the original affidavit of candidacy filed electronically is not received within seven days after the filing deadline for the original affidavit of candidacy.

b. The filing shall be void if the postmark on the envelope containing the original affidavit of candidacy is later than the filing deadline.

c. If an affidavit of candidacy filing is voided because the original affidavit of candidacy submitted by facsimile machine was postmarked too late or arrives too late, the person who filed the document shall be notified immediately in writing.

This rule is intended to implement Iowa Code sections 43.11, 43.19, 43.54, 43.67, 43.78, 44.3, 45.3, 45.4, 46.20, 47.1, 47.2, 53.2, 53.8, 53.17, 53.22, 53.25, 53.40, 53.45, 61.3, 161A.5, 260C.15, 277.4, 376.4, 376.11 and 420.130.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9879B, IAB 11/30/11, effective 1/4/12; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.3(49,48A) Voter identification documents.

21.3(1) *Identification documents for persons other than election day registrants.* Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the identification documents listed in Iowa Code section 48A.8 from any person who is asked or required to present identification pursuant to Iowa Code section 49.77.

21.3(2) *Identification for election day registrants.*

a. A person who applies to register to vote on election day shall provide proof of identity and residence pursuant to Iowa Code section 48A.7A in the precinct where the person is applying to register and vote.

b. Any registered voter who attests for another person registering to vote at the polls on election day shall be a registered voter of the same precinct. The registered voter may be a precinct election official or a pollwatcher, but may not attest for more than one person applying to register at the same election.

21.3(3) *Current and valid identification.*

a. “Current and valid” or “identification,” for the purposes of this rule, means identification that meets the following criteria:

(1) The expiration date on the identification has not passed. An identification is still valid on the expiration date. An Iowa nonoperator’s identification that shows “none” as the expiration date shall be considered current and valid.

(2) The identification has not been revoked or suspended.

b. A current and valid identification may include a former address.

21.3(4) *Identification not provided.* A person who has been requested to provide identification and does not provide it shall vote only by provisional ballot pursuant to Iowa Code section 49.81. However, a person who is registering to vote on election day pursuant to Iowa Code section 48A.7A may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct.

This rule is intended to implement Iowa Code sections 48A.7A and 49.77 and P.L. 107-252, Section 303.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.4(49) Changes of address at the polls. An Iowa voter who has moved from one precinct to another in the county where the person is registered to vote may report a change of address at the polls on election day.

21.4(1) To qualify to vote in the election being held that day, the voter shall:

a. Go to the polling place for the precinct where the voter lives on election day.

b. Complete a registration form showing the person’s current address in the precinct.

c. Present proof of identity as required by subrule 21.3(1).

21.4(2) The officials shall require a person who is reporting a change of address at the polls to cast a provisional ballot if the person’s registration in the county cannot be confirmed. Registration may be confirmed by:

a. Telephoning the office of the county commissioner of elections, or

b. Reviewing a printed list of all registered voters who are qualified to vote in the county for the election being held that day, or

c. Researching the county’s voter registration records using a computer.

21.4(3) In precincts where the voter’s declaration of eligibility is included in the election register pursuant to rule 721—21.5(49) and Iowa Code section 49.77, the commissioner shall provide to each precinct one of the two following methods for recording changes of address:

a. The voter shall be given both an eligibility declaration and a voter registration form. The eligibility declaration may be printed on the same piece of paper as the voter registration form.

b. The commissioner shall provide blank lines on the election register for the precinct election officials to record the voter’s name, address, and, if provided, telephone number, and, in primary

elections, political party affiliation. The voter shall sign the election register next to the printed information. The voter shall also complete a voter registration form showing the voter's current address.

This rule is intended to implement Iowa Code section 49.77.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.5(49) Eligibility declarations in the election register. To compensate for the absence of a separate declaration of eligibility form, the commissioner shall provide to each precinct a voter roster with space for each person who appears at the precinct to vote to print the following information: first and last name, address, and, at the voter's option, telephone number, and, in primary elections, political party affiliation.

The roster forms shall include the name and date of the election and the name of the precinct, and may be provided on paper that makes carbonless copies. If a multicopy form is used, the commissioner shall retain the original copy of the voter roster with other records of the election.

This rule is intended to implement Iowa Code section 49.77.

[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.6(43,50) Turnout reports. Rescinded IAB 6/2/10, effective 7/1/10.

721—21.7(48A) Election day registration. In addition to complying with the identification provisions in rule 721—21.3(49,48A), precinct election officials shall comply with the following requirements:

21.7(1) Precinct election officials shall inspect the identification documents presented by election day registrants to verify the following:

- a. The photograph shows the person who is registering to vote.
- b. The name on the identification document is the same as the name of the applicant.
- c. The address on the identification document is in the precinct where the person is registering to vote.

21.7(2) Precinct election officials shall verify that each person who attempts to attest to the identity and residence of a person who is registering to vote on election day is a registered voter in the precinct and has not attested for any other voter in the election. The officials shall note in the election register that the person has attested for an election day registrant.

21.7(3) Precinct election officials shall permit any person who is in line to vote at the time the polls close to register and vote on election day if the person otherwise meets all of the election day registration requirements.

21.7(4) In precincts where an electronic program is not used to check the name of an election day registrant against the statewide list of felons who have had their right to vote revoked, precinct election officials shall provide each election day registrant with a "Notice to Election Day Registrants" prepared by the state commissioner before allowing the voter to register and vote on election day. The "Notice to Election Day Registrants" prepared by the state commissioner will be posted on the state commissioner's Web site.

This rule is intended to implement Iowa Code section 48A.7A.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8777B, IAB 6/2/10, effective 5/7/10; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.8(48A) Notice to election day registrant. The commissioner shall send to each person who registers to vote on election day, pursuant to Iowa Code section 48A.7A, an acknowledgment of the registration by nonforwardable mail. If the postal service returns the acknowledgment as undeliverable, the commissioner shall send a notice to the voter by forwardable mail. The notice shall be substantially in the form titled "Notice to Election Day Registrant" posted on the state commissioner's Web site.

This rule is intended to implement Iowa Code sections 48A.7A and 48A.26A.

[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.9(49) "Vote here" signs.

1. Size. The signs shall be no smaller than 16 inches by 24 inches.

2. Exceptions. If a driveway leads away from the entrance to the voting area, or if the driveway is located in such a way that posting a “vote here” sign at the driveway entrance would not help potential voters find the voting area, no “vote here” sign shall be posted at the entrance to that driveway.

This rule is intended to implement Iowa Code section 49.21.

721—21.10(43) Application for status as a political party. A political organization which is not currently qualified as a political party may file an application for determination of political party status with the state commissioner of elections. The application may be filed after the completion of the executive council’s canvass of votes for the general election, but not later than one year after the date of the election at which the organization’s candidate for President of the United States or governor received at least 2 percent of the vote.

21.10(1) Application form. The application shall be substantially in the form titled “Application for Political Party Status” posted on the state commissioner’s Web site.

21.10(2) Response. If the political organization meets the requirements established in Iowa Code section 43.2, the commissioner shall declare that the organization has qualified as a political party, effective 21 days after the application is approved. If the organization does not meet the requirements, the state commissioner shall immediately notify the applicant in writing of the reason for the rejection of the application.

21.10(3) Disqualification of political party. If at the close of nominations for the general election a political party has not nominated a candidate for the office of President of the United States, or for governor, as the case may be, the political party shall be disqualified immediately.

If the candidate of a political party for President of the United States or for governor, as the case may be, does not receive 2 percent of the votes cast for that office at a general election, the political party shall be disqualified. The effective date of the disqualification shall be the date of the completion of the state canvass of votes.

When a political party is disqualified, the state commissioner shall immediately notify the chairperson or central committee of the disqualified political party.

21.10(4) Notice of qualification and disqualification of political parties. The state commissioner of elections shall immediately notify the state registrar of voters, the voter registration commission, and the county commissioners of elections when a political party is qualified or disqualified. The notice shall include the name of the political party and the date upon which change in political party status becomes effective.

The state commissioner of elections shall also publish notice of the qualification or disqualification of a political party in a newspaper of general circulation in each congressional district. The publication shall be made within 30 days of the approval of an application for qualification or within 30 days of the effective date of a disqualification.

This rule is intended to implement Iowa Code sections 43.2 and 47.1.
[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.11(49) Statement to provisional voter. Each voter who is required to vote a provisional ballot at the polls on election day shall be given a statement from the precinct election officials which shall be in substantially the following form:

Statement to Person Casting a Provisional Ballot
(To be completed by Precinct Official and given to Voter)

Voter’s Name: _____

Reason for Provisional Ballot (check all that apply):

- Voter did not have proper identification (see “What you need to provide” below)
 Absentee voter with no ballot to surrender

Voter was challenged by another registered voter

Reason: _____

What you need to provide before your ballot will count:

- Photo ID that has not expired and contains your name and picture
- One of the following that has not expired: Iowa driver's license, out-of-state driver's license, non-driver ID, U.S. passport, U.S. military ID, ID card issued by an employer, student ID issued by Iowa high school or college
- One of the following showing your name and current address: bank statement, paycheck, utility bill, property tax statement, residential lease, government check, or other government document

Deadline: _____ a.m./p.m., _____ (date)

Mail or Deliver Evidence to: _____, County Auditor

County Auditor Address: _____

If proof of ID or residence is required, your provisional ballot may be counted if you bring a copy of the identification listed above to this precinct before the polls close today or to the county auditor at the above address by the deadline indicated above. If your ballot is not counted, you will be notified by mail of the reason why it was not counted.

Your right to vote will be reviewed by the Special Precinct Board. You have the right and are encouraged to make a written statement and submit additional written evidence to the Board supporting your qualifications as a registered voter.

Precinct Election Official's Signature

Date

This rule is intended to implement Iowa Code section 49.81.
[ARC 9989B, IAB 2/8/12, effective 1/17/12]

721—21.12(47,53) Absentee ballot receipt deadline when the United States post office is closed on the deadline for receipt of absentee ballots. When the United States post office is closed in observance of a federal holiday and is not delivering mail on the deadline for receipt of absentee ballots as set forth in Iowa Code section 53.17, the deadline to receive mailed and timely postmarked absentee ballots shall move to the next business day on which mail delivery is available.

This rule is intended to implement Iowa Code sections 47.1, 47.4 and 53.17.
[ARC 0266C, IAB 8/8/12, effective 9/12/12]

721—21.13(47,50) Canvass date adjustment when the United States post office is closed on the deadline for receipt of absentee ballots.

21.13(1) When the United States post office is closed on a Monday that is also the deadline for receipt of absentee ballots, the county board of canvassers may hold the canvass on the Tuesday or Wednesday following the election.

21.13(2) When the United States post office is closed on a Thursday that is also the deadline for receipt of absentee ballots, the county board of canvassers shall hold the canvass on the Friday after the election, no earlier than 1 p.m.

This rule is intended to implement Iowa Code sections 47.1, 47.4 and 50.24.
[ARC 0266C, IAB 8/8/12, effective 9/12/12]

721—21.14 to 21.19 Reserved.

721—21.20(62) Election contest costs. In determining the amount of the bond for election contests, the commissioner shall consider the following aspects of the cost of the election contest proceedings:

1. Fees as provided in Iowa Code section 62.22.
2. Fees for judges as provided in Iowa Code section 62.23.
3. The cost of making an official record of the proceedings.

721—21.21(62) Limitations. The amount of the bond shall not include costs not directly related to the contest court proceedings. Specifically, the amount of the bond shall not be intended to replace any potential lost income to the county caused by the delay in implementing the decision of the voters at the election being contested.

Rules 721—21.20(62) and 721—21.21(62) are intended to implement Iowa Code sections 62.6, 62.22, 62.23, and 62.24.

721—21.22(49) Photocopied ballot procedures. If it is necessary for ballots to be photocopied pursuant to Iowa Code section 49.67, the commissioner shall use the “Request for Additional Ballots” form posted on the state commissioner’s Web site to record the request and resolution thereof. The commissioner shall complete the form, including the reason additional ballots are needed; who made the request for additional ballots and what time the request was made; the number of additional ballots produced; the manner of production of the additional ballots, including location of production; and the commissioner’s signature.

This rule is intended to implement Iowa Code section 49.67.
[ARC 9989B, IAB 2/8/12, effective 1/17/12]

721—21.23 and 21.24 Reserved.

721—21.25(50) Administrative recounts. When the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, the commissioner may request an administrative recount after the day of the election but not later than three days after the canvass of votes. The request shall be made in writing to the board of supervisors explaining the nature of the problem and listing the precincts to be recounted and which offices and questions shall be included in the administrative recount. The board of supervisors shall respond as soon as possible after receipt of the commissioner’s request.

The recount shall be conducted by members of the absentee and special voters precinct board following the provisions of Iowa Code sections 50.48 and 50.49 and 721—Chapter 26. The commissioner may use different memory cards for the recount and shall retain the information on the memory cards used in the election pursuant to 721—subrule 22.51(13). The commissioner may also use different election definition files if the commissioner believes the original election definition files were flawed. If the commissioner uses different election definition files for the recount, the commissioner shall also retain the election definition files for the election as required by 721—subrule 22.51(14).

This rule is intended to implement Iowa Code section 50.50.
[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.26 to 21.29 Reserved.

721—21.30(49) Inclusion of annexed territory in city reprecincting and redistricting plans. If a city has annexed territory after January 1 of a year ending in zero and before the completion of the redrawing of precinct and ward boundaries during a year ending in one, the city shall include the annexed land in precincts drawn pursuant to Iowa Code sections 49.3 and 49.5.

21.30(1) When the city council draws precinct and ward boundaries, if any, the city shall use the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

21.30(2) When the board of supervisors, or the temporary county redistricting commission, draws precinct and county supervisor district boundaries, if any, it shall subtract from the population of the

adjacent unincorporated area the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

21.30(3) The use of population figures for reprecincting or redistricting shall not affect the official population of the city or the county. Only the U.S. Bureau of the Census may adjust the official population figures, by corrections or by conducting special censuses. See Iowa Code section 9F.6.

This rule is intended to implement Iowa Code sections 49.3 and 49.5.

721—21.31(275) School director district maximum allowable deviation between director districts. Each director district shall have a population that exceeds the population of any other director district by no more than 10 percent. Director district plans with variations in excess of 10 percent between two or more districts shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 275.23A.

This rule is intended to implement Iowa Code section 275.23A.

[ARC 9559B, IAB 6/15/11, effective 5/23/11; ARC 9891B, IAB 11/30/11, effective 1/4/12]

721—21.32(372) City ward maximum allowable deviation between city wards. Each city ward shall have a population that exceeds the population of any other city ward by no more than 10 percent. City ward plans with variations in excess of 10 percent between two or more wards shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 372.13, subsection 7.

This rule is intended to implement Iowa Code section 372.13.

[ARC 9559B, IAB 6/15/11, effective 5/23/11; ARC 9891B, IAB 11/30/11, effective 1/4/12]

721—21.33(49) Redistricting special election blackout period. A special election shall not be held on the three Tuesdays preceding and following January 15 of years ending in the number two.

This rule is intended to implement Iowa Code chapter 49.

[ARC 9893B, IAB 11/30/11, effective 11/9/11]

721—21.34 to 21.49 Reserved.

721—21.50(49) Polling place accessibility standards.

21.50(1) Inspection required. Before any building may be designated for use as a polling place, the county commissioner of elections or the commissioner's designee shall inspect the building to determine whether it is accessible to persons with disabilities.

21.50(2) Frequency of inspection. Polling places that have been inspected using the Polling Place Accessibility Survey Form prescribed in subrule 21.50(4) shall be reinspected if structural changes are made to the building or if the location of the polling place inside the building is changed.

21.50(3) Review of accessibility. Not less than 90 days before each primary election, the commissioner shall determine whether each polling place needs to be reinspected.

21.50(4) Standards for determining polling place accessibility. The survey form available on the state commissioner's Web site titled "Polling Place Accessibility Survey" shall be used to evaluate polling places for accessibility to persons with disabilities.

The term "off-street parking" used in the polling place accessibility survey means parking places in lots separated from the street and includes angle parking along the street if the accessible route from the parking place to the polling place is entirely out of the path of traffic. Parking arrangements that require either the driver or passengers of the vehicle to go into the traveled part of the street are not accessible.

An access aisle at street level that is at least 60 inches wide and the same length as each accessible parking space shall be provided. An accessible public sidewalk curb ramp shall connect the access aisle to the continuous passage to the polling place. At least one parking place shall be van-accessible with a 96-inch access aisle connected to the continuous passage to the polling place by an accessible public sidewalk curb ramp. Two accessible parking spaces may share a common access aisle.

21.50(5) *Temporary waiver of accessibility requirements.* Notwithstanding the waiver provisions of 721—Chapter 10, if the county commissioner is unable to provide an accessible polling place for any precinct, the commissioner shall apply for a temporary waiver of accessibility requirements pursuant to this subrule. Applications shall be filed with the secretary of state not later than 60 days before the date of any scheduled election. If a waiver is granted, it shall be valid for two years from the date of approval by the secretary of state.

a. Each application shall include the following documents:

- (1) Application for Temporary Waiver of Accessibility Requirements.
- (2) A copy of the Polling Place Accessibility Survey Form for the polling place to be used.
- (3) A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for the precinct.

b. If an accessible place becomes available at least 30 days before an election, the commissioner shall change polling places and shall notify the secretary of state. The notice shall include a copy of the Polling Place Accessibility Survey Form for the new polling place.

21.50(6) *Emergency waivers.* During the 60 days preceding an election, if a polling place becomes unavailable for use due to fire, flood, or changes made to the building, or for other reasons, the commissioner must apply for an emergency waiver of accessibility requirements in order to move the polling place to an inaccessible building. Emergency waiver applications must be filed with the secretary of state as soon as possible before election day. To apply for an emergency waiver, the commissioner shall send the following documents:

a. Application for Temporary Waiver of Accessibility Requirements.

b. A copy of the Polling Place Accessibility Survey Form for the polling place selected.

c. A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for this precinct (if any).

21.50(7) *Application form.* The form posted on the state commissioner's Web site titled "Temporary Waiver of Accessibility Requirements" shall be used to apply for a temporary waiver of accessibility requirements.

21.50(8) *Evaluation of waivers.* When the secretary of state receives waiver applications, the applications shall be reviewed carefully. A response shall be sent to the commissioner within one week by E-mail or by fax to notify the commissioner when the waiver request was received and whether additional information is needed.

21.50(9) *Granting waivers.* If the secretary of state determines from the documents filed with the waiver request that conditions justify the use of a polling place that does not meet accessibility standards, the secretary of state shall grant the waiver of accessibility requirements. If the secretary of state determines from the documents filed with the waiver request that all potential polling places have been surveyed and no accessible place is available, and the available building cannot be made temporarily accessible, the waiver shall be granted.

21.50(10) *Notice required.* Each notice of election published pursuant to Iowa Code section 49.53 shall clearly describe which polling places are inaccessible. The notice shall include a description of the services available to persons with disabilities who live in precincts with inaccessible polling places. The notice shall be in substantially the following form:

Any voter who is physically unable to enter a polling place has the right to vote in the voter's vehicle. For further information, please contact the county auditor's office at the telephone number or E-mail address listed below:

Telephone: _____ E-mail address: _____.

For TTY access, dial 711 + [auditor's office number].

21.50(11) *Denial of waiver requests.* The secretary of state shall review each waiver request. The secretary of state shall consider the totality of the circumstances as shown by the information on the waiver request, information contained in previous applications for waivers for the same precinct and for other precincts in the county, and other relevant available information. The waiver request may be denied if it appears that the commissioner has not made a good-faith effort to find an accessible polling

place. If the waiver request is denied, the secretary of state shall notify the commissioner in writing of the reason for denying the request.

This rule is intended to implement Iowa Code section 49.21.
[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9879B, IAB 11/30/11, effective 1/4/12]

721—21.51 to 21.74 Reserved.

721—21.75(49) Voting centers for certain elections. The commissioner may establish voting centers for the regular city election, city primary election, city runoff election, regular school election, and special elections.

21.75(1) Definition.

“*Voting center*” means a location established by the commissioner for the purpose of providing ballots to all registered voters who are qualified to vote in a particular jurisdiction for a regular city election, city primary election, city runoff election, regular school election, or special election.

21.75(2) Minimum requirements.

a. Establishment. One or more voting centers may be established in lieu of precinct polling places for the elections at which the use of voting centers is permitted. Regular polling place sites that are accessible to people with disabilities may be used as voting centers for any election at which the use of voting centers is permitted. Other suitable locations may also be used.

b. Location of voting centers. If voting centers are established for an election, at least one voting center must be located within the boundaries of the political subdivision for which the election is being conducted. At the commissioner’s discretion, additional vote centers may be established as long as the voting center is located within the boundaries of the political subdivision for which the election is being conducted.

c. Accessibility. A voting center is subject to the requirements of Iowa Code section 49.21 relating to accessibility to persons who are elderly and persons with disabilities and relating to the posting of signs.

21.75(3) Hours. Voting center hours shall be the same as permitted for an election pursuant to Iowa Code section 49.73.

21.75(4) Publications. The location of each voting center shall be published in the notice of election by the commissioner in the same manner as the location of polling places is required to be published. The notice of election shall also include a description of the voting center in substantially the following form:

For the _____ election to be held on [date], voting centers will be available. Any registered voter of [jurisdiction name] may vote at any of the following places in this election:

[List addresses of voting centers.]

21.75(5) Posting notices at regular polling places on election day. If voting centers are established in lieu of regular polling places for an election, the commissioner shall post a notice of voting center locations, not later than the hour at which the polls open on the day of the election, on each door to the usual polling place in the precinct. The notice shall remain posted until the polls have closed.

21.75(6) I-Voters use prohibited. The commissioner shall not provide direct access from voting centers to the I-Voters system on election day.

21.75(7) Determining ballot rotations. For the purposes of determining ballot rotations pursuant to Iowa Code section 49.31 in an election for which the commissioner has established voting centers, the commissioner may use either precincts established pursuant to Iowa Code sections 49.3 to 49.5 or consolidated precincts established pursuant to Iowa Code section 49.11, subsection 3, paragraph “a.” If the commissioner uses consolidated precincts established pursuant to Iowa Code section 49.11, subsection 3, paragraph “a,” the commissioner shall use the same consolidated precincts used in the last regularly scheduled election conducted for the political subdivision in which voting centers were not used.

21.75(8) Operation of voting centers.

a. Election registers and voter lists. Each voting center shall have an election register containing the names, addresses and voter statuses of all registered voters who are eligible to vote in that election. The election register may be a paper list or may be available on computers in an electronic format, rather than as an interactive connection to I-Voters.

b. Election day registration at voting centers. A person who needs to register to vote may register and vote at a voting center provided that the person has appropriate identification and is a resident of the jurisdiction served by the voting center.

c. Voters reporting address changes at voting centers. Any person who is already registered in the county and updates the person's voter registration address at a voting center shall show identification listed in Iowa Code section 48A.8. Persons unable to provide requested identification shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

d. Ballots. Each voting center shall have all ballot styles necessary to provide a ballot to any voter who is eligible to vote in the election for the jurisdiction served by the voting center.

e. Precinct election officials. Voting centers shall be administered by a minimum of three precinct election officials selected pursuant to Iowa Code sections 49.12 to 49.16. These officials shall be trained before each election and shall have specific instructions regarding the differences between voting centers and polling places.

f. Ballot boxes used with optical scan voting equipment at voting centers. The commissioner may instruct two precinct election officials not of the same political party to open the ballot box periodically throughout election day to ensure the ballots are stacking evenly in the ballot box to prevent a voting equipment malfunction. The precinct election officials charged with inspecting the ballot box shall ensure the ballot box is locked and secured at all times. As an alternative to this procedure, the commissioner may supply any voting center with additional ballot boxes and the precinct election officials may move the optical scan voting equipment to a new ballot box if necessary. All ballot boxes containing voted ballots shall be locked and secured by the precinct election officials at all times.

21.75(9) Postelection review of voter participation.

a. Within 45 days after the election, the commissioner shall review the signed declarations of eligibility or the signed election registers from each voting center, and if any person is found to have voted in more than one voting center in the election, the commissioner shall immediately notify the county attorney.

b. The notice to the county attorney shall include a copy of the person's voter registration record and copies of the declarations of eligibility signed by the voter. The notice shall also include a reference to Iowa Code sections 39A.2(2) and 49.11(3) "b."

This rule is intended to implement Iowa Code sections 49.9 and 49.11.
[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.76 to 21.99 Reserved.

721—21.100(39A,47) Complaints concerning violations of Iowa Code chapters 39 through 53. Rescinded ARC 0616C, IAB 2/20/13, effective 3/27/13.

721—21.101 to 21.199 Reserved.

DIVISION II
BALLOT PREPARATION

721—21.200(49) Constitutional amendments and public measures.

21.200(1) The order of placement on the ballot for constitutional amendments and statewide public measures to be voted upon at a single election shall be determined by the state commissioner, and a number shall be assigned to each constitutional amendment or statewide public measure by the state commissioner.

a. The number assigned by the state commissioner to each constitutional amendment or statewide public measure to appear on the ballot for a single election shall be printed on the ballot immediately preceding and above the words “Shall the following amendment to the Constitution (or public measure) be adopted?” or the words “Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?”

b. The number assigned by the state commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

c. Even if only one constitutional amendment or statewide public measure is to appear on a ballot to be voted upon at a single election, an identifying number shall be assigned by the state commissioner and shall be printed on the ballot in the prescribed manner.

21.200(2) The order of placement on the ballot for each local public measure to be voted upon at a single election shall be determined by the commissioner, and a letter shall be assigned to each local public measure by the commissioner.

a. The letter assigned by the commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

b. Even if only one public measure is to appear on a ballot to be voted upon at a single election, an identifying letter shall be assigned by the commissioner and shall be printed on the ballot in the prescribed manner.

21.200(3) The words describing proposed constitutional amendments and statewide public measures when they appear on the ballot shall be determined by the state commissioner. The state commissioner shall select the words describing the proposed constitutional amendments and statewide public measures in the following manner:

a. Not less than 150 days prior to the election at which a proposed constitutional amendment or statewide public measure is to be voted on by the voters, the state commissioner shall prepare a proposed description to be used on the ballots in administrative rule form and shall file the proposed rules with the administrative rules coordinator for publication in the Iowa Administrative Bulletin.

b. The rules shall provide that written comments regarding the proposed description will be accepted by the state commissioner for a period of time not less than 20 days after the date of publication in the Iowa Administrative Bulletin.

c. The state commissioner shall review any written comments which have been timely received and make any changes deemed to be warranted in the description to be printed on the ballots.

This rule is intended to implement Iowa Code sections 47.1 and 49.44.

[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.201(44) Competing nominations by nonparty political organizations.

21.201(1) *Nominations by convention and by petitions.* If one or more nomination petitions are received from nonparty political organization candidates for an office for which the same organization has also nominated one candidate by convention, the candidate nominated by convention shall be considered the nominee of the organization. The names of the other candidates shall appear on the ballot as candidates “nominated by petition,” and those candidates shall be notified in writing not later than seven days after the close of the filing period.

21.201(2) *Multiple nomination petitions.* If nomination petitions are received from more than one candidate from the same nonparty political organization for the same office and the organization has not nominated a candidate for the office by convention, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates shall appear on the ballot as candidates “nominated by petition.” A copy of the written record of the result of the drawing

shall be kept with the nomination petition of each affected candidate, and each candidate shall be sent a copy for the candidate's records not later than seven days after the close of the filing period.

21.201(3) *Multiple nomination certificates.* If more than one nomination certificate is received for the same office from groups with the same nonparty political organization name, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates, including any candidate who filed nomination petitions, shall appear on the ballot as candidates "nominated by petition." A copy of the written record of the result of the drawing shall be kept with the nomination certificate of each affected candidate, and each candidate shall be sent a copy for the candidate's records not later than seven days after the close of the filing period.

This rule is intended to implement Iowa Code section 44.17.

721—21.202(43,52) Form of primary election ballot. All primary election ballots shall meet the following formatting requirements:

21.202(1) *Required information.* In addition to other requirements listed in the Iowa Code, primary election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the party, which shall be printed at the top of the ballot in at least 24-point type.
- c. The name of the county.
- d. Instructions for how to mark the ballot.

21.202(2) *Headings and lines.* Rescinded IAB 9/8/10, effective 8/16/10.

21.202(3) *Office titles and order of offices.* Each office printed on the ballot shall be preceded by an office title. The order of offices on the primary election ballot shall be as follows:

a. In gubernatorial election years, the order of office titles on the primary election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District ____.
- (3) Governor.
- (4) Secretary of State.
- (5) Auditor of State.
- (6) Treasurer of State.
- (7) Secretary of Agriculture.
- (8) Attorney General.
- (9) State Senator, district ____ (if any).
- (10) State Representative, District ____.
- (11) Board of Supervisors (if plan II or plan III, then Board of Supervisors, District ____).
- (12) Treasurer.
- (13) Recorder.
- (14) County Attorney.

b. In presidential election years, the order of office titles on the primary election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District ____.
- (3) State Senator, District ____ (if any).
- (4) State Representative, District ____.
- (5) Board of Supervisors (if plan II or plan III, then Board of Supervisors, District ____).
- (6) Auditor.

(7) Sheriff.

c. If an office is printed on the primary election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

21.202(4) *Vote for number.* Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than ____.” The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election.

21.202(5) *Write-in vote targets.* After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.202(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any.”

21.202(6) *Font size.* Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

21.202(7) *Two-sided ballots.* If a primary election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

This rule is intended to implement Iowa Code section 43.31.

[ARC 8698B, IAB 4/21/10, effective 6/15/10; ARC 9049B, IAB 9/8/10, effective 8/16/10; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.203(49,52) Form of general election ballot. All general election ballots shall meet the following formatting requirements:

21.203(1) *Required information.* In addition to other requirements listed in the Iowa Code, general election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the county.
- c. Instructions for how to mark the ballot, including instructions for voting on judicial retentions and constitutional amendments or public measures and instructions for straight-party voting.
- d. Ballot location of the judges’ names and any constitutional amendment(s).

21.203(2) *Headings and lines.* Rescinded IAB 9/8/10, effective 8/16/10.

21.203(3) *Office titles, order of offices and public measures.* Each office printed on the ballot shall be preceded by an office title. The order of offices and public measures listed on the general election ballot shall be as follows:

a. In gubernatorial election years, the order of office titles and public measures on the general election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District ____.
- (3) Governor and Lt. Governor.
- (4) Secretary of State.
- (5) Auditor of State.
- (6) Treasurer of State.
- (7) Secretary of Agriculture.
- (8) Attorney General.
- (9) State Senator, District ____ (if any).
- (10) State Representative, District ____.
- (11) Board of Supervisors (if plan II or plan III, then Board of Supervisors, District ____).
- (12) Treasurer.
- (13) Recorder.
- (14) County Attorney.
- (15) Township Trustee (if any).
- (16) Township Clerk (if any).
- (17) County Public Hospital Trustee (if any).

- (18) Soil and Water Conservation District Commissioner.
- (19) County Agricultural Extension Council Member.
- (20) Other nonpartisan offices (if any).
- (21) Supreme Court Justice (if any).
- (22) Court of Appeals Judge (if any).
- (23) District Court Judge (if any).
- (24) District Court Associate Judge (if any).
- (25) Associate Juvenile Judge (if any).
- (26) Associate Probate Judge (if any).
- (27) Public Measures (if any). Under the public measures heading, measures shall be listed in the

following order:

- 1. Constitutional Amendment (if any).
- 2. State Public Measure (if any).
- 3. County Public Measure (if any).
- 4. City Public Measure (if any).

b. In presidential election years, the order of office titles on the general election ballot shall be listed as follows:

- (1) President and Vice President.
- (2) U.S. Senator (if any).
- (3) U.S. Representative, District ____.
- (4) State Senator, District ____ (if any).
- (5) State Representative, District ____.
- (6) Board of Supervisors (if plan II or plan III, then Board of Supervisors, district ____).
- (7) Auditor.
- (8) Sheriff.
- (9) Township Trustee (if any).
- (10) Township Clerk (if any).
- (11) County Public Hospital Trustee (if any).
- (12) Soil and Water Conservation District Commissioner.
- (13) County Agricultural Extension Council Member.
- (14) Other nonpartisan offices (if any).
- (15) Supreme Court Justice (if any).
- (16) Court of Appeals Judge (if any).
- (17) District Court Judge (if any).
- (18) District Court Associate Judge (if any).
- (19) Associate Juvenile Judge (if any).
- (20) Associate Probate Judge (if any).
- (21) Public Measures (if any). Under the public measures heading, measures shall be listed in the

following order:

- 1. Constitutional Amendment (if any).
- 2. State Public Measure (if any).
- 3. County Public Measure (if any).
- 4. City Public Measure (if any).

c. If an office is printed on the general election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

21.203(4) *Vote for number.* Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than ____”. The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election. Under the “President and Vice President” office title, “Vote for no more than one team” shall be printed

on the ballot. Under the “Governor and Lt. Governor” office title, “Vote for no more than one team” shall be printed on the ballot.

21.203(5) Write-in vote targets. After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.203(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any”. For the offices of President and Vice President, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for President, if any” and “Write-in vote for Vice President, if any”. For the offices of governor and lieutenant governor, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for Governor, if any” and “Write-in vote for Lt. Governor, if any”.

21.203(6) Font size. Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

21.203(7) Two-sided ballots. If a general election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

21.203(8) Separate judicial ballot. The judicial ballot shall be separate from the rest of the ballot and shall be conspicuously distinguished by headings and lines.

This rule is intended to implement Iowa Code section 49.57A.

[ARC 8698B, IAB 4/21/10, effective 6/15/10; ARC 9049B, IAB 9/8/10, effective 8/16/10; ARC 0107C, IAB 4/18/12, effective 3/30/12; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.204(260C) Tabulating election results by school district for merged area special elections. All results for merged area special elections, including special precinct results, shall be tabulated by school district. To tabulate the special precinct results in this manner, the county commissioner may either program the voting equipment to tabulate the ballots in this manner or manually sort and tabulate the ballots by school district.

This rule is intended to implement Iowa Code chapter 260C.

[ARC 9879B, IAB 11/30/11, effective 1/4/12]

721—21.205 to 21.299 Reserved.

DIVISION III
ABSENTEE VOTING

721—21.300(53) Satellite absentee voting stations.

21.300(1) Establishment of stations. Satellite absentee voting stations may be established by the county commissioner of elections or by a petition of eligible electors of the jurisdiction conducting the election.

a. Satellite absentee voting stations established by the county commissioner. The county commissioner of elections may designate locations in the county for satellite absentee voting stations. Satellite absentee voting stations established by the commissioner shall be accessible to elderly and disabled voters. Satellite absentee voting stations must also be established so as to provide for voting in secret and ballot security.

b. Satellite absentee voting stations established after receipt of a valid petition. A petition requesting a satellite absentee voting station shall be substantially in the form titled “Petition Requesting Satellite Absentee Voting Station” available on the state commissioner’s Web site. If the commissioner receives a petition requesting a satellite absentee voting station on or before the petition deadline set forth in Iowa Code section 53.11, the commissioner shall determine the validity of the petition within 24 hours. A petition requesting a satellite absentee voting station is valid if it contains signatures of not less than 100 eligible electors of the jurisdiction conducting the election. Electors signing the petition must include their signature, house number, street, and date the petition was signed. Signatures on lines not containing all of the required information shall not be counted. The heading on each page of

the petition shall include the satellite location requested and the election name or date for which the location is requested. Signatures on petition pages without the required heading shall not be counted.

c. Mandatory rejection of certain satellite absentee voting stations. Otherwise valid petitions for satellite absentee voting stations shall be rejected within four days of the commissioner's receipt of the petition if:

- (1) The site requested is not accessible to elderly and disabled voters,
- (2) The site requested has other physical limitations that make it impossible to meet the requirements for ballot security and secret voting, or
- (3) The owner of the site refuses permission to locate the satellite absentee voting station at the site requested on the petition.

d. Discretionary rejection of certain satellite absentee voting stations. Otherwise valid petitions for satellite absentee voting stations may be rejected within four days of the commissioner's receipt of the petition if:

- (1) A petition is received requesting satellite voting for a city runoff election and a special election is scheduled to be held between the regular city election and a city runoff election.
- (2) The owner of the site demands payment for its use.

e. Provision of ballots. Only ballots from the county in which the site is located may be provided at the satellite absentee voting station. Ballots must be provided for the precinct in which the satellite absentee voting station is located; however, it is not necessary to provide ballots from all of the precincts in the political subdivision for which the election is being conducted.

21.300(2) Notice provided. Notice shall be published at least seven days before the opening of any satellite absentee voting station. If more than one satellite absentee voting station will be provided, a single publication may be used to notify the public of their availability. If it is not possible to publish the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be published as soon as possible.

A notice shall also be posted at each satellite absentee voting station at least seven days before the opening of the satellite absentee voting station. The notice shall remain posted as long as the satellite absentee voting station is scheduled for service. If it is not possible to post the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be posted as soon as possible.

Both the published and posted notices shall include the following information:

- a.* The name and date of the election for which ballots will be available.
- b.* The location(s) of the satellite absentee voting station(s).
- c.* The dates and times that the station(s) will be open.
- d.* The precincts for which ballots will be available.
- e.* An announcement that voter registration forms will be available for new registrations in the county and that changes in the registration records of people who are currently registered within the county may be made at any time.

If the satellite absentee voting station is located in a building with more than one public entrance, brief notices of the location of the satellite absentee voting station shall be posted on building directories, bulletin boards, or doors. These notices shall be posted no later than the time the station opens and shall be removed immediately after the satellite absentee voting station has ceased operation for an election.

21.300(3) Staff. Satellite absentee voting station workers may be selected from among the staff members of the commissioner's office, from the election board panel drawn up pursuant to Iowa Code sections 49.15 and 49.16, or a combination of these two sources. Compensation of workers selected from the election board panel shall be at the rate provided in Iowa Code section 49.20.

At least three people shall be assigned to work at each satellite absentee voting station; more workers may be added at the commissioner's discretion. All workers must be registered voters of the county, and for primary and general elections the workers must be registered with a political party; however, workers not affiliated with any party may be assigned to work at a satellite absentee voting station as long as not more than one-third of the workers assigned to a particular satellite absentee voting station are not affiliated with a political party. For all elections, no more than a simple majority of the workers shall be members of the same political party.

People who are prohibited from working at the polls pursuant to Iowa Code section 49.16 may not work at satellite absentee voting stations.

21.300(4) Oath required. Before the first day of service at a satellite absentee voting station, each worker shall take an oath substantially in the form titled "Election Official/Clerk Oath" available on the state commissioner's Web site. The oath must be taken before each election.

21.300(5) Suggested supplies for each satellite absentee voting station. A list of supplies suggested for each satellite absentee voting station is available on the state commissioner's Web site.

21.300(6) Ballot transport and storage. At the commissioner's discretion the ballots may be transported between the commissioner's office and the satellite absentee voting station by the workers who will be on duty that day, or by two people of different political parties who have been designated as couriers by the commissioner. It is not necessary for the same people to transport the ballots in both directions.

If the ballots are transported by the satellite absentee voting station workers, two workers who are members of different political parties and the ballots must travel together in the same vehicle.

Ballots may be stored at the satellite absentee voting station during hours when the station is closed only if they are kept in a locked cabinet or container. The cabinet must be located in a room which is kept locked when not in use. Voted absentee ballots must be delivered to the commissioner's office at least once each week.

21.300(7) Ballot receipts. Satellite absentee voting station workers shall sign receipts for the ballots taken to the satellite absentee voting site. The receipt shall be substantially in the form titled "Satellite Absentee Voting Station Ballot Record and Receipt" available on the state commissioner's Web site. A copy of the ballot record and receipt shall be retained in the commissioner's office. The original shall be sent with the ballots to the satellite absentee voting station.

21.300(8) Arrangement of the satellite absentee voting station. Protection of the security of the ballots (both voted and unvoted) and the secrecy of each person's vote shall be considered in the arranging of the satellite absentee voting station.

a. Security. The satellite absentee voting station shall be arranged so that ballots are protected against removal from the station by unauthorized persons.

b. Voting area. Voting booths without curtains shall be placed so that passersby and other voters may not walk directly behind a person using the booth. At least one voting booth must be accessible to the disabled. The booth must be designed to accommodate a person seated in a chair or wheelchair. A chair must be provided for voters who wish to sit down while voting or waiting in line.

c. Campaign signs and electioneering. No signs supporting or opposing any candidate or question on the ballot shall be posted on the premises of or within 300 feet of any outside door of any building affording access to a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station. No electioneering shall be allowed within the sight or hearing of voters while they are at the satellite absentee voting station.

21.300(9) Operation of the satellite absentee voting station. At all times the satellite absentee voting station shall have at least two workers present to preserve the security of the ballots, both voted and unvoted.

21.300(10) Voter registration at the satellite absentee voting station. Each satellite absentee voting station shall provide forms necessary to register voters, including the oaths necessary to process voters registering pursuant to Iowa Code section 48A.7A, and to record changes in voter registration records. Workers shall also be provided with a method of verifying whether people applying for absentee ballots are registered voters.

The commissioner may provide a list of registered voters in the precincts served by the station. The list may be on paper or contained in a computerized data file. As an alternative, the commissioner may provide a computer connection with the commissioner's office.

21.300(11) Procedure for issuing absentee ballot. The instructions for absentee voting are available on the state commissioner's Web site and shall be provided to satellite absentee voting station workers unless the commissioner prepares instructions containing substantially the same information as the instructions available on the state commissioner's Web site.

21.300(12) *Closing a station.* The instructions for closing a satellite absentee voting station are available on the state commissioner's Web site and shall be provided to satellite absentee voting station workers unless the commissioner prepares instructions containing substantially the same information as the instructions available on the state commissioner's Web site.

21.300(13) *Use of I-Voters at satellite absentee voting stations.* Any county commissioner who wants to use the I-Voters statewide voter registration database at a satellite absentee voting station shall:

a. Complete an application to use I-Voters at a satellite absentee voting station. A separate application shall be completed for each satellite absentee voting station. The application is available on the state commissioner's Web site. The application shall be submitted at least seven days before the opening of the satellite absentee voting station. If it is not possible to submit an application at least seven days before the station opens due to the receipt of a petition, the application shall be submitted as soon as possible. The application will be considered by the state commissioner as soon as practicable after it is received. The state commissioner reserves the right to reject an application for any reason or to limit the number of users at any satellite absentee voting station.

b. Use a cellular telephone service or a wired Internet connection to connect to the Internet from the satellite absentee voting station. If the county uses a wired Internet connection, the commissioner shall use either a regular or a wireless router between the wired Internet connection and the county's computers. Connection to a facility's wireless network is not permitted.

c. Configure any wireless routers to be used between the facility's wired Internet connection and the county's laptop computers as follows:

- (1) A minimum 10-character password must be assigned to the router administration screens.
- (2) WPA (AES) security for wireless connections with a minimum 10-character password must be used.
- (3) Remote management of the router must be prohibited.
- (4) Universal Plug & Play must be turned off.
- (5) Port forwarding on the router must not be disabled.
- (6) Unauthorized connections shall be prohibited, including smartphones, personal digital assistants (PDAs) and laptops.

d. Configure any wired routers to be used between the facility's wired Internet connection and the county's laptop computers as follows:

- (1) Remote management of the router must be prohibited.
- (2) Universal Plug & Play must be turned off.
- (3) Port forwarding on the router must not be disabled.
- (4) Unauthorized connections shall be prohibited, including smartphones, PDAs and laptops.
- (5) Administrator passwords for the routers must be changed from the default passwords, and standard county password policies shall be followed.

e. Laptops used at a satellite absentee voting station shall be configured as follows:

- (1) The hard drives must be encrypted.
 - (2) The operating system must be fully supported by the operating system vendor.
 - (3) The operating system must be fully patched.
 - (4) Antivirus software and anti-spyware must be installed and up to date.
 - (5) A full antivirus and anti-spyware scan must be done during the week before a laptop is used at a satellite absentee voting station and at least once a week thereafter while the laptop is being used at satellite absentee voting stations.
 - (6) The administrator password must be changed from the default password.
 - (7) Guest user accounts must be disabled or renamed.
 - (8) File/print sharing must be turned off, and remote access must be disabled.
 - (9) Bluetooth must be turned off.
 - (10) The Windows firewall must be turned on.
- f.* Laptops connected to I-Voters at a satellite absentee voting station shall never be left unattended.

g. Laptops connected to I-Voters at a satellite absentee voting station shall not have any USB memory sticks or CDs/DVDs inserted in the computer after the virus scan is conducted pursuant to subrule 21.300(13), paragraph “e.”

h. Laptops connected to I-Voters at a satellite absentee voting station shall not be used to visit any other Web sites.

i. No software applications, other than I-Voters, shall be used while the I-Voters application is in use at a satellite absentee voting station.

21.300(14) Provisional voting at satellite absentee voting stations. If it is necessary for a voter to cast a provisional ballot at a satellite absentee voting station, the voter shall receive the same ballot style as the majority of the voters would receive in the precinct in which the satellite absentee voting station is located.

This rule is intended to implement Iowa Code section 53.11.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9139B, IAB 10/6/10, effective 9/16/10; ARC 9989B, IAB 2/8/12, effective 1/17/12]

721—21.301(53) Absentee ballot requests from voters whose registration records are “inactive.”

21.301(1) In person. Absentee voters whose registration records are “inactive” and who appear in person to vote, either at the office of the commissioner or at a satellite absentee voting station, shall be assigned a status of “active” after requesting an absentee ballot.

21.301(2) By mail. When a request for an absentee ballot is received by mail from a voter whose registration record has been made “inactive” pursuant to Iowa Code section 48A.29, the commissioner shall update the voter’s residential address to the address listed on the absentee ballot request if requested by the voter and assign the voter a status of “active.”

21.301(3) Absentee ballots received from a voter subsequently assigned “inactive” status.

a. The commissioner shall mail an absentee ballot to a voter if a voter’s status is changed to “inactive” between the time the voter requested an absentee ballot and the time the absentee ballots are ready to mail. The commissioner shall also separately notify the voter of the requirement to provide identification before the ballot can be counted pursuant to paragraph 21.301(3) “c.”

b. The commissioner shall set aside the absentee ballot of a voter whose status is changed to “inactive” pursuant to Iowa Code section 48A.26, subsection 6, after the voter has submitted the voter’s absentee ballot.

c. Pursuant to Iowa Code section 53.31, the commissioner shall notify any voter assigned an “inactive” status subsequent to requesting or returning an absentee ballot that the voter’s absentee ballot has been challenged and may be counted only if the voter personally delivers or mails a copy of the voter’s identification as listed in Iowa Code section 48A.8 to the commissioner’s office before the absentee and special voters precinct board convenes to count absentee ballots, or reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22. If the commissioner does not receive a copy of the voter’s identification before the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the absentee and special voters precinct board shall reject the absentee ballot.

This rule is intended to implement Iowa Code sections 48A.26, 48A.29, 48A.37 and 53.25.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.302(48A) In-person absentee registration. After the close of voter registration for an election, a person who appears in person to apply for and vote an absentee ballot may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote using identification that meets the requirements set forth in Iowa Code section 48A.7A. The voter must also complete an oath of person registering on election day. If the voter does not have appropriate identification, the voter may establish identity and residence using the attestation procedure in Iowa

Code section 48A.7A, subsection 1, paragraph “c.” Otherwise, the person may cast only a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballot envelopes shall be used.

This rule is intended to implement Iowa Code section 48A.7A.
[ARC 8045B, IAB 8/26/09, effective 7/27/09]

721—21.303(53) Mailing absentee ballots. The commissioner shall mail the following materials to each person who has requested an absentee ballot:

1. Ballot. The ballot that corresponds to the voter’s residence, as indicated by the residential address on the absentee ballot application.
2. Public measure text. The full text of any public measures that are summarized on the ballot, but not printed in full.
3. Secrecy envelope. Secrecy envelope, if the ballot cannot be folded to cover all of the voting ovals, as required by Iowa Code section 53.8(1).
4. Affidavit envelope. The affidavit envelope, which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records.
5. Return envelope. The return envelope, which shall be addressed to the commissioner’s office and bear appropriate return postage or a postal permit guaranteeing that the commissioner will pay the return postage and which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records. All domestic and UOCAVA return envelope flaps or backs shall also be printed or stamped with a notice in substantially the following form: “This ballot will only be eligible for counting if it is received by the auditor’s office before the polls close on election day or postmarked before election day and received by the deadline listed in the voting instructions included with this ballot. **Postmarks are not guaranteed!** Mail the ballot early to make sure it is received on time. Track the status of your absentee ballot at www.sos.iowa.gov.”
6. Delivery envelope. The delivery envelope, which shall be addressed to the voter and bear the I-Voters-assigned sequence number used to identify the absentee request in the commissioner’s records. All other materials shall be enclosed in the delivery envelope.
7. Instructions. Absentee voting instructions, which shall be in the form required by rule 721—22.250(52).
8. Receipt. The receipt form required by Iowa Code section 53.3, which may be printed on the instructions required by numbered paragraph “7” above.

This rule is intended to implement Iowa Code sections 53.8 and 53.17.
[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 0107C, IAB 4/18/12, effective 3/30/12]

721—21.304(53) Absentee ballot requests from voters whose registration records are “pending.” A voter who requests an absentee ballot and is assigned a status of “pending” must provide identification pursuant to Iowa Code section 48A.8.

21.304(1) In-person applicants. In-person applicants for absentee ballots assigned a status of “pending” must show identification pursuant to Iowa Code section 48A.8 before casting a ballot. If an in-person applicant provides identification as required by Iowa Code section 48A.8 when casting an absentee ballot in person, the commissioner shall assign the voter’s registration record a status of “active” and provide the voter with an absentee ballot. Voters who are unable to provide identification as required by Iowa Code section 48A.8 shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

21.304(2) By-mail applicants. By-mail applicants for absentee ballots assigned a status of “pending” must either come to the commissioner’s office and show identification pursuant to Iowa Code section 48A.8 or mail a photocopy of identification pursuant to Iowa Code section 48A.8 before the voter’s absentee ballot can be counted by the absentee and special voters precinct board. The commissioner shall mail the voter a notice informing the voter of the requirement to provide one of the identification documents listed in Iowa Code section 48A.8 before the voter’s absentee ballot can be considered for counting by the absentee and special voters precinct board. If a by-mail applicant provides identification as required by Iowa Code section 48A.8, the commissioner shall assign the voter’s registration record a status of “active.”

21.304(3) *By-mail absentee voters assigned a status of “pending” who do not provide identification prior to election day.* The ballot of a by-mail absentee voter assigned a status of “pending” who has not shown identification in person at the commissioner’s office or provided a photocopy of identification by mail pursuant to Iowa Code section 48A.8 shall be challenged by a member of the absentee and special voters precinct board on election day pursuant to Iowa Code section 53.31. The absentee and special voters precinct board shall immediately mail notice of the challenge to the voter. The notice shall include the deadline for the voter to provide identification pursuant to Iowa Code section 48A.8. If the voter provides identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter’s ballot shall be considered for counting by the absentee and special voters precinct board. If the voter does not provide identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter’s absentee ballot shall be rejected by the absentee and special voters precinct board. The voter shall be notified of the reason for rejection pursuant to Iowa Code section 53.25.

This rule is intended to implement Iowa Code sections 48A.8, 53.25 and 53.31.
[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.305(53) Confirming commissioner’s receipt of an absentee ballot on election day. If a voter’s name is on the absentee list prepared pursuant to Iowa Code sections 49.72 and 53.19 and the voter appears at the polling place to vote on election day, the precinct election officials may contact the commissioner’s office to confirm whether the commissioner has received the voter’s absentee ballot. If the precinct election officials are able to confirm either that the commissioner has not received the voter’s absentee ballot or that the voter’s absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the precinct election officials shall permit the voter to cast a regular ballot at the polling place.

After confirming that a voter’s absentee ballot has not been received or that a voter’s absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the commissioner shall mark the voter’s absentee ballot as “Void” in the statewide voter registration system. The commissioner shall enter “Voted at polls” in the comment box that appears when the ballot is marked as “Void.”

If a voter’s absentee ballot is returned to the commissioner’s office after being marked as “Void” pursuant to this rule, the absentee ballot shall be rejected by the absentee and special voters precinct board pursuant to Iowa Code section 53.25 because the voter cast a ballot in person at the polling place.

This rule is intended to implement Iowa Code sections 49.72, 49.81 and 53.19.
[ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.306 to 21.319 Reserved.

721—21.320(53) Absentee voting by UOCAVA voters. This rule applies only to absentee voting by persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces.”

21.320(1) Definitions. The following definitions apply to this rule:

“*Armed forces*,” as used in this rule, is defined in Iowa Code section 53.37(3).

“*FPCA*” means the federal postcard absentee ballot application and voter registration form authorized for use in Iowa by Iowa Code section 53.38.

“*UOCAVA voter*” means any person who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces.”

21.320(2) Requests for absentee ballots. All requests for absentee ballots shall be made in writing. Additional requirements for requesting absentee ballots and for processing the requests are set forth below.

a. *Forms.* UOCAVA voters may use the following official forms to request absentee ballots:

- (1) A federal postcard absentee ballot application and voter registration form (FPCA).
- (2) A state of Iowa official absentee ballot request form.
- (3) For general elections only, a proxy absentee ballot application prescribed by the state commissioner of elections and submitted pursuant to Iowa Code Supplement section 53.40(1)“b.”

b. Form not required. UOCAVA voters may request absentee ballots in writing without using an official form. The written request shall be honored if it includes all of the following information about the voter:

- (1) Name.
- (2) Age or date of birth.
- (3) Iowa residence, including street address (if any) and city.
- (4) Address to which the ballot shall be sent.
- (5) Township of residence, if applicable.
- (6) County of residence.
- (7) Party affiliation, if the request is for a ballot for a primary election.
- (8) Signature of voter.
- (9) Statement explaining why the voter is eligible to receive ballots under the provisions of Iowa Code chapter 53, division II. For example, “I am a U.S. citizen living in France.”

c. Methods for transmitting absentee ballot requests. UOCAVA voters may transmit absentee ballot requests by any of the following methods:

- (1) Mail.
- (2) Personal delivery by the voter or a person designated by the voter.
- (3) Facsimile machine.
- (4) Scanned application form or letter transmitted by E-mail. Requests by E-mail that do not include an image of the voter’s written signature as defined by Iowa Code section 39.3, subsection 17, shall not be accepted.

d. Original request not needed. If the request is sent by E-mail or by fax, it is not necessary for the UOCAVA voter to send to the commissioner the original copy of the FPCA or other official form or written request for an absentee ballot.

e. Multiple requests from the same person. Before the ballot is ready to mail, if the commissioner receives more than one request for an absentee ballot for a particular election (or series of elections) by or on behalf of a UOCAVA voter, the last request received shall be the one honored. However, if one of the requests is for a general election ballot and is made using the proxy absentee ballot application process permitted by Iowa Code Supplement section 53.40(1)“b,” the request received from the voter shall be the one honored, not the proxy request.

f. Subsequent request after ballot has been sent. Not more than one ballot shall be transmitted by the commissioner to any UOCAVA voter for a particular election unless, after the ballot has been mailed or transmitted electronically pursuant to rule 721—21.320(53), the voter reports a change in the address, E-mail address or fax number to which the ballot should be sent. The commissioner shall void the original absentee ballot request and include a comment in the voter’s registration record, noting the I-Voters-sequence number of the original ballot and noting that a replacement ballot was sent to an updated address. If the original ballot is returned voted, it shall be counted only if the replacement ballot does not arrive before the deadline for receiving absentee ballots set forth in Iowa Code section 53.17.

g. Requests for absentee ballots through the end of the calendar year. Iowa Code section 53.40 permits UOCAVA voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request in which the UOCAVA voter requests ballots for all elections, the commissioner shall send the applicant a ballot for each election held after the request is received through the end of the calendar year in which the request is received. If the applicant does not request ballots for all elections or does not specify which elections the request is for, the commissioner shall send the applicant a ballot only for federal elections through the end of the calendar year in which the request is received.

(1) When an absentee ballot for a UOCAVA voter is returned as undeliverable by the United States Postal Service or an E-mail server or a fax cannot be transmitted to the number provided by the voter, the commissioner shall do the following:

1. Verify that the commissioner's office sent the absentee ballot to the address, E-mail address or fax number requested by the UOCAVA voter. If the absentee ballot was sent incorrectly, the commissioner shall correct the error and immediately transmit a new absentee ballot.

2. If the absentee ballot was sent to the correct mailing address, E-mail address or fax number, the commissioner shall E-mail the voter if the commissioner has an E-mail address on file to inform the voter that the voter's ballot was returned undeliverable, and the commissioner must be provided with a new FPCA containing a new mailing address if the voter wishes to continue to receive absentee ballots.

3. If the absentee ballot was sent to the correct mailing address, E-mail address or fax number, the commissioner shall also attempt to contact the voter by sending a forwardable notice to both the voter's residential address and the voter's absentee mailing address informing the voter that the voter's ballot was returned undeliverable, and the commissioner must be provided with a new FPCA containing a new mailing address, E-mail address or fax number if the voter wishes to continue to receive absentee ballots.

4. If the absentee ballot was mailed, E-mailed or sent to the correct address or fax number, the commissioner shall terminate the voter's current FPCA request and shall not send the voter any further ballots unless a new absentee ballot request is received from the voter.

(2) If the voter provides a new FPCA with a new mailing address, E-mail address or fax number before election day, the commissioner shall enter a new absentee request on the voter's registration record and transmit the ballot via the method requested by the voter. The voter may request that the commissioner transmit the ballot electronically pursuant to subrule 21.320(3).

21.320(3) *Electronic transmission of absentee ballots to UOCAVA voters.*

a. Electronic transmission of absentee ballots by facsimile machine or by E-mail is limited to UOCAVA voters who specifically ask for this service. A UOCAVA voter who asks for electronic transmission of an absentee ballot may request this service for all elections for which the person is qualified to vote or for specific elections either individually or for a specific period of time. The commissioner may employ FVAP's secure transmission program to facilitate electronic transmission of absentee ballots to UOCAVA voters.

b. Forms. The state commissioner shall provide the following forms and instructions for the electronic transmission of absentee ballots to UOCAVA voters:

(1) Instructions to the county commissioners of elections for providing this service.

(2) Instructions to the voter for marking and returning the ballot.

(3) The envelope affidavit form, which can be printed by the voter on an envelope and used for the voter's declaration of eligibility and voter registration application, if necessary.

(4) The return envelope form, which can be printed by the voter on an envelope and used to return the ballot, postage paid through the FPO/APO postal service.

21.320(4) *Ballot return by electronic transmission.*

a. Electronic transmission of a voted absentee ballot from the voter to the commissioner is permitted only for UOCAVA voters who are located in an area designated as an imminent danger pay area or for active members of the army, navy, marine corps, merchant marine, coast guard, air force or Iowa national guard who are located outside the United States or any of its territories, as provided in subrule 21.1(13). In addition, the absentee ballot may be returned via electronic transmission only if the voter waives the right to a secret ballot. In addition to signing the affidavit required by Iowa Code section 53.13, the voter shall sign a statement in substantially the following form: "I understand that by returning this ballot by electronic transmission, my voted ballot will not be secret. I hereby waive my right to a secret ballot."

b. When an absentee ballot is received via electronic transmission, the person receiving the transmission shall examine it to determine that all pages have been received and are legible. The person receiving an electronic transmission shall not reveal how the voter voted.

c. The absentee ballot shall be sealed in an envelope marked with the voter's name. The affidavit of the voter and the application for the ballot shall be attached to the envelope. These materials shall be stored with other returned absentee ballots.

d. The deadline for returning an absentee ballot pursuant to this subrule is the close of polls on election day, Central Standard Time.

21.320(5) Original signature for voter registration record. Voters must submit original signatures on voter registration applications unless otherwise provided by this subrule.

a. *UOCAVA voters ineligible to return voted balloting materials electronically.* UOCAVA voters who are not currently registered to vote in a county and are not eligible to return voted ballot materials electronically pursuant to this rule shall submit an original, signed application for voter registration. The application may be the Iowa voter registration application, the National Mail Voter Registration Form, a Federal Post Card Application, a declaration/affirmation accompanying a federal write-in absentee ballot or a signature on a voted UOCAVA absentee ballot affidavit. Ballots transmitted to UOCAVA voters who do not submit an original voter registration application shall not be counted, and the voter who requested the ballot shall be assigned a status of "Incomplete" with a status reason "No Signature" following the election for which the ballot was requested.

b. *UOCAVA voters eligible to return voted balloting materials electronically.* UOCAVA voters who are not currently registered to vote and are eligible to return voted ballot materials electronically pursuant to this rule shall submit a signed, scanned application for voter registration. The application may be the Iowa voter registration application, the National Mail Voter Registration Form, a Federal Post Card Application, a declaration/affirmation accompanying a federal write-in absentee ballot or a signature on a voted UOCAVA absentee ballot affidavit. Ballots transmitted to UOCAVA voters who do not submit signed, scanned voter registration applications shall not be counted, and the voter who requested the ballot shall be assigned a status of "Incomplete" with a status reason "No Signature" following the election for which the ballot was requested.

This rule is intended to implement Iowa Code sections 53.40 and 53.46.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8777B, IAB 6/2/10, effective 5/7/10; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 0107C, IAB 4/18/12, effective 3/30/12; ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.321 to 21.349 Reserved.

721—21.350(53) Absentee ballot processing for elections held following July 1, 2007. Rescinded IAB 9/26/07, effective 9/7/07.

721—21.351(53) Receiving absentee ballots. The commissioner shall carefully account for and protect all absentee ballots returned to the office.

21.351(1) Note receipt. The commissioner shall write or file-stamp on the return carrier envelope the date that the ballot arrived in the commissioner's office. The commissioner shall also record receipt of the ballot in I-Voters.

21.351(2) Temporary storage. If necessary, the commissioner shall immediately put the ballot into a secure container, such as a locked ballot box, until the ballots can be moved to the secure storage area.

21.351(3) Secure area. The commissioner shall deliver the ballots to a secure area where returned absentee ballots will be reviewed for completeness and defects.

[ARC 8779B, IAB 6/2/10, effective 7/1/10]

721—21.352(53) Review of returned envelopes marked with affidavits.

21.352(1) Personnel. The commissioner may assign staff members to complete the review of returned envelopes marked with affidavits. Only persons who have been trained for this responsibility shall be authorized to review envelopes marked with affidavits.

21.352(2) Review of envelopes marked with affidavits. The envelopes marked with affidavits of all absentee ballots returned to the commissioner's office shall be reviewed, including those returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes.

If a reviewer finds that any absentee affidavits returned from any health care facility are incomplete or defective, the commissioner shall send the bipartisan delivery team back to assist voters as needed with completing affidavits or to deliver any replacement ballots.

21.352(3) Instructions. Each reviewer shall receive instructions in substantially the form prepared by the state commissioner of elections. The instructions shall provide basic security and procedural guidance and include a method for accounting for all returned absentee ballots. The prohibitions shall include:

- a. Leaving unsecured ballots unattended.
- b. Altering any information on any affidavit.
- c. Adding any information to any affidavit, except as specifically required to comply with the requirements of the law.
- d. Sealing any envelope marked with the affidavit that is found open.
- e. Discarding any return carrier envelopes, ballots, or envelopes marked with affidavits that are returned by voters.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 1549C, IAB 7/23/14, effective 8/27/14]

721—21.353(53) Opening the return carrier envelopes that are not marked with voters' affidavits. If the commissioner is using return carrier envelopes that are not marked with voters' affidavits, the commissioner may direct a staff member to open the return carrier envelopes either manually or with an automatic letter opener, if one is available. Only a trained reviewer may remove the contents of the return carrier envelope. The return carrier envelopes opened and emptied pursuant to this rule shall be stored for 22 months for federal elections and 6 months for local elections in a manner that will facilitate retrieval, if necessary.

[ARC 1549C, IAB 7/23/14, effective 8/27/14]

721—21.354(53) Review process.

21.354(1) Examination of envelope marked with affidavit. The reviewer shall make sure that:

- a. The envelope marked with the affidavit is sealed, apparently with the ballot inside.
- b. The envelope marked with the affidavit has not been opened and resealed.
- c. The affidavit includes the voter's signature.

21.354(2) No defects or incomplete information. If the reviewer finds that the affidavit is signed and that there are no defects that would cause the absentee and special voters precinct board to reject the ballot, the reviewer shall put the envelope marked with the affidavit into a group of envelopes to be retained in the secure storage area with other ballots that require no further attention until they are delivered to the absentee and special voters precinct board.

21.354(3) Defective and incomplete affidavits. The commissioner shall contact the voter if the reviewer finds any of the following flaws in the affidavit or envelope marked with the affidavit:

a. The commissioner shall contact the voter immediately if the envelope marked with the affidavit is defective. An envelope marked with the affidavit is defective if:

- (1) The absentee ballot is not enclosed in the envelope marked with the affidavit.
- (2) The envelope marked with the affidavit is not sealed.
- (3) The envelope marked with the affidavit has been opened and resealed.
- (4) The voter submits a change of address in a new precinct after returning a voted absentee ballot.

b. The commissioner shall contact the voter within 24 hours if the affidavit is not signed.

c. If an envelope marked with the affidavit has flaws that are included in both paragraphs "a" and "b," the commissioner shall follow the process in paragraph "a."

21.354(4) Defective and incomplete affidavits stored separately. The commissioner shall store the defective and incomplete envelopes marked with affidavits separately from other returned absentee ballot envelopes marked with affidavits.

a. Incomplete envelopes marked with affidavits requiring voter correction must be available for retrieval when the voter comes to make corrections.

b. Defective envelopes marked with affidavits must be attached to the replacement ballot (if any) for review by the absentee and special voters precinct board.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 1549C, IAB 7/23/14, effective 8/27/14]

721—21.355(53) Notice to voter. When the commissioner finds an incomplete absentee ballot affidavit or finds a defective envelope marked with the affidavit, the commissioner shall notify the voter in writing and, if possible, by telephone and by e-mail. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

21.355(1) Notice to voter—incomplete ballot affidavit. Within 24 hours after receipt of an absentee ballot with an incomplete affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:

- a. Explanation that the voter's absentee ballot affidavit is missing the voter's signature.
- b. The voter's options for completing the affidavit as follows:
 - (1) Completing the affidavit at the commissioner's office by 5 p.m. the day before the election;
 - (2) Requesting a replacement ballot pursuant to Iowa Code section 53.18; or
 - (3) Voting at the polls on election day.
- c. Address of commissioner's office, business hours and contact information.

21.355(2) Notice to voter—defective ballot affidavit. Immediately after determining that an absentee ballot envelope marked with the affidavit is defective, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:

- a. Reason for defect.
- b. The voter's options for correcting the defect as follows:
 - (1) The voter may request a replacement ballot;
 - (2) The voter may vote at the polls on election day; or
 - (3) In the event an absentee ballot becomes defective because a voter reregisters to vote in a new precinct or county after casting an absentee ballot, the voter may correct the defect by reregistering to vote in the precinct in which the absentee ballot was cast, provided the voter can still claim residence for voter registration purposes in the precinct in which the absentee ballot was cast pursuant to Iowa Code sections 48A.5 and 48A.5A. If a voter reregisters after the voter registration deadline listed in Iowa Code section 48A.9 for a particular election, the voter shall be required to follow election day registration procedures as set forth in Iowa Code section 48A.7A, subsection 3.
- c. Process for requesting a replacement ballot.
- d. Address of commissioner's office, business hours and contact information.

21.355(3) Telephone contact. If the voter has provided a telephone number, either on the absentee ballot application or on the voter's registration record, the commissioner shall also attempt to contact the voter by telephone. The commissioner shall keep a written record of the telephone conversation. The written record shall include the following information:

- a. Name of the person making the call.
- b. Date and time of the call.
- c. Whether the person making the call spoke to the voter.

21.355(4) E-mail contact. If the voter has provided an E-mail address, either on the absentee ballot application or on the voter's registration record, the commissioner shall also attempt to contact the voter by E-mail. The E-mail message shall be the same message that was mailed to the voter. A copy of the E-mail message shall be attached to the checklist.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10; ARC 9989B, IAB 2/8/12, effective 1/17/12; ARC 1549C, IAB 7/23/14, effective 8/27/14]

Rules 721—21.351(53) through 721—21.355(53) are intended to implement Iowa Code sections 53.18 and 53.25 as amended by 2014 Iowa Acts, House File 2366, division II.

721—21.356 to 21.358 Reserved.

721—21.359(53) Processing absentee ballots before election day. The commissioner may only direct the absentee and special voters precinct board to open envelopes marked with affidavits on the Monday before election day under the following circumstances:

For any election, only if the commissioner has provided secrecy envelopes (or folders) pursuant to subrule 21.359(1) and the commissioner determines removing secrecy envelopes from envelopes marked with affidavits is necessary due to the quantity of voted absentee ballots received as set forth in Iowa Code section 53.23, subsection 3, paragraph “a.”

For general elections, if the commissioner convenes the absentee and special voters precinct board pursuant to Iowa Code section 53.23, subsection 3, paragraph “c,” to begin tabulation of absentee ballots.

21.359(1) The secrecy envelope shall completely cover the ballot. The envelope shall have the following message printed on it using at least 24-point type:

Secrecy Envelope
After you vote, put your ballot in here.

21.359(2) When the absentee and special voters precinct board convenes to begin processing absentee ballots, the board shall first review voters’ affidavits to determine which ballots will be accepted for counting and prepare the notices to those voters whose ballots have been rejected for the reasons set forth in Iowa Code section 53.25. Envelopes marked with affidavits containing ballots that are rejected shall be stored in the manner prescribed by Iowa Code section 53.26. The applications submitted for rejected ballots shall be stored in a secure location for the time period required by Iowa Code section 50.19.

21.359(3) Envelopes marked with affidavits containing ballots that have been accepted for counting by the absentee and special voters precinct board shall be stacked with the affidavits facing down. The envelopes shall be opened and the secrecy envelope containing the ballot shall be removed.

21.359(4) If a voter has not enclosed the ballot in a secrecy envelope and the ballot has not been folded in a manner that conceals all votes marked on the ballot, the officials shall put the ballot in a secrecy envelope without examining the ballot.

21.359(5) The following security procedures shall be followed:

a. The process shall be witnessed by observers appointed by the county chairperson of each of the political parties referred to in Iowa Code section 49.13, subsection 2. If, after receiving notice from the commissioner pursuant to Iowa Code section 53.23, subsection 3, paragraph “a,” either or both political parties fail to appoint an observer, the commissioner may continue with the proceedings.

b. No ballots shall be counted or examined before election day except as provided in Iowa Code section 53.23, subsection 3, paragraph “c.”

c. When secrecy envelopes are removed from envelopes marked with affidavits on the day before an election and not tabulated as permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” the number of secrecy envelopes shall be recorded before the ballots are stored and the number shall be verified before any ballots are removed from the secrecy envelopes on election day. The ballots may be bundled and sealed in groups of a specified number to make counting easier.

This rule is intended to implement Iowa Code section 53.23 as amended by 2014 Iowa Acts, House File 2366, division II.

[**ARC 8045B**, IAB 8/26/09, effective 7/27/09; **ARC 8779B**, IAB 6/2/10, effective 7/1/10; **ARC 1549C**, IAB 7/23/14, effective 8/27/14]

721—21.360(53) Failure to affix postmark date. Rescinded IAB 4/20/11, effective 3/31/11.

721—21.361(53) Rejection of absentee ballot. The absentee and special voters precinct board shall reject absentee ballots without opening the envelope marked with the affidavit if any of the conditions cited in Iowa Code section 53.25 exist.

21.361(1) An absentee ballot shall be rejected if the affidavit lacks the voter’s signature.

21.361(2) An absentee ballot shall be rejected if the applicant is not a duly registered voter in the precinct in which the ballot is cast. “Precinct” means a precinct established pursuant to Iowa Code sections 49.3 through 49.5 or a consolidated precinct established by the commissioner pursuant to Iowa Code section 49.11, subsection 3, paragraph “a.”

21.361(3) An absentee ballot shall be rejected if the envelope marked with the affidavit is open.

21.361(4) An absentee ballot shall be rejected if the envelope marked with the affidavit has been opened and resealed.

21.361(5) An absentee ballot shall be rejected if the envelope marked with the affidavit contains more than one ballot of any kind.

21.361(6) An absentee ballot shall be rejected if the voter has voted in person at the polls.

This rule is intended to implement Iowa Code section 49.9 and section 53.25 as amended by 2014 Iowa Acts, House File 2366, division II.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1549C, IAB 7/23/14, effective 8/27/14]

721—21.362 to 21.369 Reserved.

721—21.370(53) Training for absentee ballot couriers. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.371(53) Certificate. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.372(53) Frequency of training. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.373(53) Registration of absentee ballot couriers. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.374(53) County commissioner’s duties. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.375(53) Absentee ballot courier training. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.376(53) Receiving absentee ballots. Rescinded IAB 8/1/07, effective 7/1/07.

721—21.377 to 21.399 Reserved.

DIVISION IV
INSTRUCTIONS FOR SPECIFIC ELECTIONS

721—21.400(376) Signature requirements for certain cities. This rule applies to cities which have all of the following characteristics:

1. Nomination procedures under Iowa Code section 376.3 are used. (This includes cities with primary or runoff election provisions. It does not include cities with nominations under Iowa Code chapter 44 or 45.)

2. Some or all council members are voted upon by the electors of wards, rather than by the electors of the entire city.

3. Ward boundaries have been changed since the last regular city election at which the ward seat was on the ballot.

4. The number of wards has not changed.

Calculation of the number of signatures for ward seats shall use the vote totals from the wards as the wards were configured at the time of the last regular city election at which the ward seat was on the ballot.

This rule is intended to implement Iowa Code section 376.4.

721—21.401(376) Signature requirements in cities with primary or runoff election provisions. In cities using the provisions of Iowa Code section 376.4 for nomination of candidates and in which more than one council member was elected at-large at the last preceding regular city election, the number of signatures shall be calculated by the following formula:

V = the total number of votes cast for all candidates for council member at-large at the last regular city election;

E = the number of people to be elected at the last regular city election;

$$\frac{V}{E} \times .02 = \text{the number of signatures needed by each candidate in the next regular city election.}$$

This rule is intended to implement Iowa Code section 376.4.

721—21.402(372) Filing deadline for charter commission appointment petition. If a special election has been called by a city to present to the voters the question of adopting a different form of city government, receipt by the city council of a petition requesting appointment of a charter commission shall stay the special election if the petition is received no later than 5 p.m. on the Friday preceding the date of the special election.

This rule is intended to implement Iowa Code section 372.3.

721—21.403(372) Special elections to fill vacancies in elective city offices for cities that may be required to conduct primary elections.

21.403(1) Notice to the commissioner. At least 60 days before the proposed date of the special election, the city council shall give written notice to the commissioner who will be responsible for conducting the special election.

a. If the commissioner finds no conflict with other previously scheduled elections, or with other limitations on the dates of special elections, the commissioner shall immediately notify the council that the date has been approved.

b. No special city elections to fill vacancies for cities that may be required to conduct primary elections shall be held with the general election, with the primary election, or with the annual school election. To do so would be contrary to the provisions of Iowa Code section 39.2.

21.403(2) Election calendar. The election calendar shall be adjusted as follows:

a. The deadline for candidates to file nomination papers with the county commissioner shall be not later than 5 p.m. on the fifty-third day before the election.

b. A candidate who has filed nomination papers for the special election may withdraw by filing a written notice of withdrawal in the office of the county commissioner not later than 5 p.m. on the fiftieth day before the election.

c. A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate's nomination papers or to the qualifications of the candidate for this special election with the county commissioner not later than 12 noon on the fiftieth day before the election.

d. The hearing on the objection must be held within 24 hours of receipt of the objection.

This rule is intended to implement Iowa Code section 372.13(2).

[ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.404(372) Special elections to fill vacancies in elective city offices for cities without primary election requirements. This rule applies to cities that have adopted by ordinance one of the following options: nominations under Iowa Code chapter 44 or chapter 45, or a runoff election requirement if no candidate in the special election receives a majority of the votes cast.

21.404(1) Notice to the commissioner. At least 32 days before the proposed date of the special election, the city council shall give written notice to the commissioner who will be responsible for conducting the special election. If the commissioner finds no conflict with other previously scheduled elections, or with other limitations on the dates of special elections, the commissioner shall immediately notify the council that the date has been approved.

21.404(2) Special elections to fill vacancies held in conjunction with the general election. If the proposed date of the special election coincides with the date of the general election, the council shall give notice of the proposed date of the special city election not later than 76 days before the date of the

general election. Candidates shall file nomination papers with the county commissioner not later than 5 p.m. on the sixty-ninth day before the general election. Objection and withdrawal deadlines shall be 64 days before the general election. Hearings on objections shall be held as soon as possible in order to facilitate printing of the general election ballot.

21.404(3) Election calendar. If the special election date is not the same as the date of the general election, the election calendar shall be adjusted as follows:

a. The deadline for candidates to file nomination papers with the county commissioner shall be not later than 5 p.m. on the twenty-fifth day before the election.

b. A candidate who has filed nomination papers for the special election may withdraw by filing a written notice of withdrawal in the office of the county commissioner not later than 5 p.m. on the twenty-second day before the election.

c. A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate's nomination papers or to the qualifications of the candidate for this special election with the county commissioner not later than 12 noon on the twenty-second day before the election.

d. The hearing on the objection must be held within 24 hours of receipt of the objection.

This rule is intended to implement Iowa Code section 372.13(2).

[ARC 1549C, IAB 7/23/14, effective 8/27/14; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.405(69) Special elections to fill a vacancy in the office of representative in Congress. This rule establishes the special election calendar in the event a vacancy occurs in the office of representative in Congress that must be filled by special election pursuant to Iowa Code section 69.14.

21.405(1) Notice of election. The governor shall provide not less than 76 days' notice of a special election to fill a vacancy in the office of representative in Congress.

21.405(2) Political party convention deadline. A political party candidate to be voted on at a special election to fill a vacancy in the office of representative in Congress shall be nominated by a convention duly called by the district central committee not less than 62 days prior to the date set for the special election.

21.405(3) Candidate filing deadline. Nominations made pursuant to Iowa Code chapter 43, 44 or 45 shall be filed in the office of the state commissioner not later than 5 p.m. on the sixty-second day prior to the date set for the special election.

21.405(4) Candidate certification deadline. Names of candidates nominated for the special election shall be certified at the earliest practicable time to the appropriate commissioners of election as required by Iowa Code section 43.88.

21.405(5) Candidate objection deadline. Written objections to the legal sufficiency of a nomination petition filed pursuant to Iowa Code chapter 45 or a certificate of nomination filed pursuant to Iowa Code chapter 43 or 44 shall be in writing and shall be filed with the state commissioner no later than 5 p.m. on the sixtieth day prior to the election.

21.405(6) Candidate withdrawal deadline. A person who has filed nomination papers with the state commissioner as a candidate for a special election to fill a vacancy in the office of representative in Congress may withdraw by filing a written notice of withdrawal with the state commissioner no later than 5 p.m. on the sixtieth day prior to the election.

[ARC 0109C, IAB 5/2/12, effective 4/6/12]

721—21.406 to 21.499 Reserved.

721—21.500(277) Signature requirements for school director candidates. The number of signatures required to be filed by candidates for the office of director in the regular school election shall be calculated from the number of registered voters in the district on May 1 of the year in which the election will be held. If May 1 falls on a day when the commissioner's office is closed for business, the commissioner shall use the number of registered voters in the district on the next day that the commissioner's office is open for business to determine the number of required signatures. Candidates who are seeking election in districts with election plans as specified in Iowa Code section 275.12(2) "b" and "c," where the candidate must

reside in a specific director district, but is voted upon by all of the electors of the school district, shall be required to file a number of signatures calculated from the number of registered voters in the whole school district. Candidates who will be voted upon only by the electors of a director district shall be required to file a number of signatures calculated from the number of registered voters in the director district in which the candidate resides and seeks to represent.

If a special election is to be held to fill a vacancy on the school board, the number of registered voters on the date the commissioner receives notice of the special election shall be used to calculate the number of signatures required for the special election.

This rule is intended to implement Iowa Code sections 277.4 and 279.7.
[ARC 9466B, IAB 4/20/11, effective 3/31/11]

721—21.501 to 21.599 Reserved.

721—21.600(43) Primary election signatures—plan three supervisor candidates. Rescinded IAB 11/30/11, effective 1/4/12.

721—21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors or method of election. After the number of supervisors has been increased or decreased pursuant to Iowa Code section 331.203 or 331.204 or the method of electing supervisors has been changed from plan I or plan II to plan III since the last general election, the signatures for candidates at the next primary and general elections shall be calculated as follows:

21.601(1) Primary election. Divide the total number of party votes cast in the county at the previous general election for the office of president or for governor, as applicable, by the number of supervisor districts and multiply the quotient by .02. If the result of the calculation is less than 100, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 100, the minimum requirement shall be 100 signatures.

21.601(2) Nominations by petition. If the effective date of the change in the number of districts or method of election was later than the date specified in Iowa Code section 45.1(6), divide the total number of registered voters in the county on the date specified in Iowa Code section 45.1(6) by the number of supervisor districts and multiply the quotient by .01. If the result of the calculation is less than 150, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 150, the minimum requirement shall be 150 signatures.

This rule is intended to implement Iowa Code chapters 43 and 45.
[ARC 9989B, IAB 2/8/12, effective 1/17/12]

721—21.602(43) Primary election—nominations by write-in votes for certain offices.

21.602(1) The process described in subrule 21.602(2) shall be used to determine whether the primary election is conclusive and a candidate was nominated for partisan offices that are:

- a. Not mentioned in Iowa Code section 43.53 (township offices) or 43.66 (state representative and state senator), and
- b. For which no candidate's name was printed on the primary election ballot, and
- c. For which no candidate's name was printed on the primary election ballot in any previous primary election.

21.602(2) To be nominated by write-in votes, the person must receive at least 35 percent of the number of votes cast in the previous general election for that party's candidate for president of the United States or for governor, as the case may be, as follows:

- a. Statewide office: 35 percent of votes cast statewide.
- b. Congressional district: 35 percent of votes cast within the current boundaries of the Congressional district.
- c. County office, including plan II supervisors: 35 percent of the votes cast within the county.
- d. Plan III county supervisor: 35 percent of the votes cast within the supervisor district. If the boundaries of the supervisor district have changed since the previous general election, the number of votes cast within the county for the party candidate for president or for governor, as the case may be,

shall be divided by the number of supervisor districts in the county; then the quotient shall be multiplied by 0.35.

21.602(3) If a write-in candidate is declared nominated at the canvass of votes, Iowa Code section 43.67, which requires the appropriate election commissioner to notify the candidate, shall apply.

This rule is intended to implement Iowa Code section 43.66.

721—21.603 to 21.799 Reserved.

721—21.800(423B) Local sales and services tax elections.

21.800(1) Petitions requesting imposition, rate change, use change, or repeal of local sales and services taxes shall be filed with the county board of supervisors.

a. Each person signing the petition shall include the person's address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition, rate change, use change, or repeal of a local sales and services tax. In the notice the supervisors shall include the date of the election.

c. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph "a," but no sooner than 84 days after the date upon which notice is given to the commissioner.

21.800(2) As an alternative to the method of initiating a local option tax election described in subrule 21.800(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 423B.1, subsection 4, paragraph "b," requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph "a," but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

21.800(3) Notice of local sales and services tax election.

a. Not less than 60 days before the date that a local sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots, but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the supervisors shall provide to the county commissioner the following information to be included in the notice and on the ballots for imposition elections:

(1) The rate of the tax.

(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 423B.6 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time that otherwise complies with the requirements of Iowa Code chapter 423B). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in subparagraphs 21.800(3)"b"(1), 21.800(3)"b"(3), and 21.800(3)"b"(4) above, the following information shall be substituted in the notice and on the ballot:

(1) One percent (1%) for the rate of the tax.

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

b. Imposition question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize imposition of a local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

c. Imposition question with an automatic repeal date for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES

NO

Summary: To authorize imposition of a local sales and services tax in the [city of _____] [unincorporated area of the county of _____], at the rate of _____ percent (_____ %) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the [city of _____] [unincorporated area of the county of _____] at the rate of _____ percent (_____ %) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

d. Imposition question with an automatic repeal date for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES

NO

Summary: To authorize imposition of a local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____ %) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____ %) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)
 The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
 (List specific purpose or purposes)

FOR THE CITY OF _____:
 _____ for property tax relief (insert percentage or dollar amount)
 The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
 (List specific purpose or purposes)

FOR THE CITY OF _____:
 _____ for property tax relief (insert percentage or dollar amount)
 The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
 (List specific purpose or purposes)

e. Repeal question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
 NO

Summary: To authorize repeal of the ____ percent (____%) local sales and services tax in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), ____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The ____ percent (____%) local sales and services tax shall be repealed in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), ____ (year).

Revenues from the sales and services tax have been allocated as follows:
 (Choose one or more of the following:)
 [_____ for property tax relief (insert percentage or dollar amount)]
 [_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]
 [_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):
 (List specific purpose or purposes)

f. Repeal question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES

NO

Summary: To authorize repeal of the ____ percent (____%) local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The ____ percent (____%) local sales and services tax shall be repealed in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), _____ (year).

Revenues from the sales and services tax have been allocated as follows:

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

g. Rate change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to ____ percent (____%) in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The rate of the local sales and services tax shall be increased (or decreased) to ____ percent (____%) in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), ____ (year). The current rate is ____ percent (____%).

Revenues from the sales and services tax are allocated as follows: (Choose one or more of the following:)

- [_____ for property tax relief (insert percentage or dollar amount)]
[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]
[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

h. Rate change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES [] NO []

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to ____ percent (____%) in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), ____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The rate of the local sales and services tax shall be increased (or decreased) to ____ percent (____%) in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), ____ (year).

Revenues from the sales and services tax are allocated as follows:

FOR THE CITY OF _____: _____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____: _____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____: _____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

i. Use change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES NO

Summary: To authorize a change in the use of the _____ percent (____%) local sales and services tax in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The use of the _____ percent (____%) local sales and services tax shall be changed in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), _____ (year).

PROPOSED USES OF THE TAX:

If the change is approved, revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

CURRENT USES OF THE TAX:

Revenues from the sales and services tax are currently allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

j. Use change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize a change in the use of the ____ percent (____%) local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The use of the ____ percent (____%) local sales and services tax shall be changed in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), _____ (year).

PROPOSED USES OF THE TAX:

If the change is approved, revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):
(List specific purpose or purposes)

CURRENT USES OF THE TAX:

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues are otherwise expended is (are):
(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

k. Imposition question with differing automatic repeal dates for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize imposition of a local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____%) to be effective from _____ (month/day/year) until automatic repeal date specified.

A local sales and services tax shall be imposed in the following cities at the rate of _____ percent (_____%) to be effective from _____ (month/day/year) until the date specified below and the revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____:

The tax shall be repealed on _____ (month/day/year).

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF _____:

The tax shall be repealed on _____ (month/day/year).

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF _____:

The tax shall be repealed on _____ (month/day/year).

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

21.801(2) For a local vehicle tax:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize the county of (insert name of county) to impose a local vehicle tax at the rate of _____ dollars (\$ _____) per vehicle and to exempt the following classes from the tax:

The revenues are to be expended as set forth in the text of the public measure.

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using optical scan ballots which are read by automatic tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The county of _____, Iowa shall be authorized to impose a local vehicle tax at the rate of _____ dollars (\$ _____) per vehicle and to exempt the following classes of vehicles from the tax:

_____ (insert percentage or dollar amount) of the revenues is/are to be used for property tax relief.

The balance of the revenues is to be expended for:

(List purposes for which remaining revenues will be used)

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.802(423B) Local vehicle tax elections.

21.802(1) Petitions requesting imposition of local vehicle taxes shall be filed with the county board of supervisors.

a. Each person signing the petition shall add the person's address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition of a local vehicle tax. In the notice the supervisors shall include the date of the election.

c. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph "c," but no sooner than 84 days after the date upon which notice is given to the commissioner.

21.802(2) Notice of local vehicle tax election. Not less than 60 days before the date that a local vehicle tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include a sample ballot, but shall include all of the information that will appear on the ballot. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 1831C, IAB 1/21/15, effective 2/25/15]

721—21.803(423F) Revenue purpose statement ballots. When a school district wishes to adopt, amend or extend the revenue purpose statement specifying the uses of the funds received from the secure an advanced vision for education fund, which is also referred to as the "penny sales and services tax for schools," the following ballot formats shall be used.

21.803(1) *Ballot to propose a revenue purpose statement.* The ballot for an election to propose a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To adopt a revenue purpose statement specifying the use of money from the penny sales and services tax for schools received by _____ School District.

In the _____ School District, the following revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be adopted:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by Iowa Code chapter 423F.)

21.803(2) *Ballot to amend a revenue purpose statement.* The ballot for an election to decide a change in the revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To authorize a change in the use of money from the penny sales and services tax for schools received by _____ School District.

In the _____ School District, the revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be changed.

Proposed uses. If the change is approved, the revenue purpose statement shall read as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by Iowa Code chapter 423F.)

Current uses. If the change is not approved, the funds shall continue to be used as follows:

(Insert here the current revenue purpose statement or list the current voter-approved uses of the funds by the school district, if the school infrastructure local option tax was adopted before the revenue purpose statement was required.)

21.803(3) *Ballot to extend a revenue purpose statement.* The ballot for an election to extend a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

- YES
- NO

Gambling games on an excursion gambling boat or at a gambling structure in _____ County are approved.

21.820(3) Form of ballot for elections to continue gambling games on an excursion gambling boat or at a gambling structure:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Summary: Gambling games on an excursion gambling boat or at a gambling structure in _____ County are approved.

Gambling games, with no wager or loss limits, on an excursion gambling boat or at a gambling structure in _____ County are approved. If approved by a majority of the voters, operation of gambling games with no wager or loss limits may continue until the question is voted upon again at the general election held in 2010. If disapproved by a majority of the voters, the operation of gambling games on an excursion gambling boat or at a gambling structure will end within 60 days of this election. (Iowa Code section 99F.7(10) "c")

21.820(4) Ballot form to permit gambling games at existing pari-mutuel racetracks:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

The operation of gambling games at (name of pari-mutuel racetrack) in _____ County is approved.

21.820(5) Abstract of votes. A copy of the abstract of votes of the election shall be sent to the state racing and gaming commission.

21.820(6) Ballot form for general election for continuing operation of gambling games at pari-mutuel racetracks:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Summary: The continued operation of gambling games at (name of pari-mutuel racetrack) in _____ County is approved.

The continued operation of gambling games at (name of pari-mutuel racetrack) in _____ County is approved. If approved by a majority of the voters, operation of gambling games may continue at (name of pari-mutuel racetrack) in _____ County until the question is voted on again at the general election in eight years. If disapproved by a majority of the voters, gambling games at (name of pari-mutuel racetrack) in _____ County will end.

21.820(7) Ballot form for general election for continuing gambling games on an excursion gambling boat or at a gambling structure:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Summary: The continued operation of gambling games on an excursion gambling boat or at a gambling structure in _____ County is approved.

The continued operation of gambling games on an excursion gambling boat or at a gambling structure in _____ County is approved. If approved by a majority of the voters, operation of gambling games may continue on an excursion gambling boat or at a gambling structure in _____ County until the question is voted on again at the general election in eight years. If disapproved by a majority of voters, gambling games on an excursion gambling boat or at a gambling structure in _____ County will end nine years from the date of the original issue of the license to the current licensee.

This rule is intended to implement Iowa Code section 99F.7 and Iowa Code Supplement section 99F.4D.

[ARC 8045B, IAB 8/26/09, effective 7/27/09; ARC 8779B, IAB 6/2/10, effective 7/1/10]

721—21.821 to 21.829 Reserved.

721—21.830(357E) Benefited recreational lake district elections. Elections for benefited recreational lake districts shall be conducted according to the following procedures.

21.830(1) Conduct of election. It is not mandatory for the county commissioner of elections to conduct elections for a benefited recreational lake district. However, if both a public measure and a candidate election will be held on the same day in a benefited recreational lake district, the same person shall be responsible for conducting both elections. All elections must be held on a Tuesday.

21.830(2) Ballots. Ballots for benefited recreational lake district trustee elections shall be printed on opaque white paper, 8 by 11 inches in size. The ballots for the initial election for the office of trustee shall be in substantially the following form:

OFFICIAL BALLOT
BENEFITED RECREATIONAL LAKE DISTRICT

Election date

(facsimile signature of person responsible for printing ballots)

FOR TRUSTEE:

To vote: Neatly print the names of at least three people you would like to see elected to the office of Trustee of the Benefited Recreational Lake District. You may vote for as many people as you wish, but you must vote for at least three.

(At the bottom of the ballot a space shall be included for the endorsement of the precinct election official, like this:)

Precinct official's endorsement: _____

21.830(3) Canvass of votes. On the Monday following the election, the board of supervisors shall canvass the votes cast at the election. At the initial election the supervisors shall choose three trustees

from among the five persons who received the most votes. The results of benefited recreational lake district elections shall be certified to the district board of trustees.

This rule is intended to implement Iowa Code section 357E.8.

- [Filed emergency 4/22/76—published 5/17/76, effective 4/22/76]
- [Filed emergency 6/2/76—published 6/28/76, effective 8/2/76]
- [Filed 10/7/81, Notice 9/2/81—published 10/28/81, effective 12/2/81]
- [Filed emergency 11/15/84—published 12/5/84, effective 11/15/84]
- [Filed 1/22/85, Notice 12/5/84—published 2/13/85, effective 3/20/85]
- [Filed 5/17/85, Notice 4/10/85—published 6/5/85, effective 7/10/85]
- [Filed emergency 7/2/85—published 7/31/85, effective 7/2/85]
- [Filed emergency 7/26/85—published 8/14/85, effective 7/26/85]
- [Filed emergency 8/14/85—published 9/11/85, effective 8/14/85]
- [Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
- [Filed 10/30/85, Notice 9/25/85—published 11/20/85, effective 12/25/85]
- [Filed emergency 12/18/86—published 1/14/87, effective 12/18/86]
- [Filed emergency 4/20/87—published 5/20/87, effective 4/20/87]◊
- [Filed 6/23/88, Notice 5/18/88—published 7/13/88, effective 8/17/88]
- [Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
- [Filed 3/1/89, Notice 1/25/89—published 3/22/89, effective 4/26/89]
- [Filed emergency 5/10/89—published 5/31/89, effective 5/10/89]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed emergency 6/22/89, after Notice of 5/31/89—published 7/12/89, effective 7/1/89]
- [Filed 8/16/89, Notice 6/28/89—published 9/6/89, effective 10/11/89]
- [Filed 11/9/89, Notice 10/4/89—published 11/29/89, effective 1/3/90]
- [Filed 12/7/89, Notice 11/1/89—published 12/27/89, effective 1/31/90]
- [Filed 3/26/92, Notice 2/5/92—published 4/15/92, effective 5/20/92]
- [Filed 11/19/92, Notice 9/30/92—published 12/9/92, effective 1/13/93]◊
- [Filed 1/14/93, Notice 12/9/92—published 2/3/93, effective 3/10/93]
- [Filed 6/4/93, Notice 4/28/93—published 6/23/93, effective 7/28/93]
- [Filed emergency 6/28/93—published 7/21/93, effective 7/1/93]
- [Filed 9/8/93, Notice 7/21/93—published 9/29/93, effective 11/3/93]
- [Filed 11/5/93, Notice 9/29/93—published 11/24/93, effective 12/29/93]
- [Filed emergency 4/4/94—published 4/27/94, effective 4/4/94]
- [Filed 7/1/94, Notice 5/25/94—published 7/20/94, effective 8/24/94]
- [Filed 6/30/95, Notice 5/24/95—published 7/19/95, effective 8/23/95]
- [Filed 2/8/96, Notice 1/3/96—published 2/28/96, effective 4/3/96]
- [Filed 5/31/96, Notice 4/10/96—published 6/19/96, effective 7/24/96]
- [Filed 6/13/96, Notice 5/8/96—published 7/3/96, effective 8/7/96]
- [Filed emergency 7/25/96 after Notice 6/19/96—published 8/14/96, effective 7/25/96]
- [Filed emergency 5/21/97—published 6/18/97, effective 5/21/97]
- [Filed emergency 7/30/97—published 8/27/97, effective 7/30/97]
- [Filed 8/22/97, Notice 7/16/97—published 9/10/97, effective 10/15/97]
- [Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
- [Filed emergency 5/1/98—published 5/20/98, effective 5/1/98]◊
- [Filed emergency 8/7/98—published 8/26/98, effective 8/7/98]
- [Filed emergency 8/11/99—published 9/8/99, effective 8/11/99]
- [Filed 10/29/99, Notice 9/22/99—published 11/17/99, effective 12/22/99]
- [Filed emergency 12/22/99—published 1/12/00, effective 12/22/99]
- [Filed 2/3/00, Notice 12/29/99—published 2/23/00, effective 4/1/00]
- [Filed 5/26/00, Notice 4/19/00—published 6/14/00, effective 7/19/00]
- [Filed 9/14/00, Notice 8/9/00—published 10/4/00, effective 11/8/00]
- [Filed emergency 10/10/00 after Notice 8/9/00—published 11/1/00, effective 11/7/00]

- [Filed emergency 7/20/01 after Notice 6/13/01—published 8/8/01, effective 7/20/01]
- [Filed 2/1/02, Notice 8/8/01—published 2/20/02, effective 3/27/02]
- [Filed emergency 3/15/02—published 4/3/02, effective 3/15/02]
- [Filed emergency 7/19/02—published 8/7/02, effective 7/19/02]
- [Filed 2/13/03, Notice 12/25/02—published 3/5/03, effective 4/9/03]
- [Filed emergency 3/28/03—published 4/16/03, effective 3/28/03]
- [Filed 2/26/04, Notice 1/7/04—published 3/17/04, effective 4/21/04][◇]
- [Filed 2/26/04, Notice 1/21/04—published 3/17/04, effective 4/21/04]
- [Filed emergency 8/27/04 after Notice 7/21/04—published 9/15/04, effective 8/27/04]
- [Filed emergency 10/12/04—published 11/10/04, effective 10/12/04]
- [Filed 1/25/06, Notice 12/21/05—published 2/15/06, effective 3/22/06]
- [Filed emergency 3/10/06—published 3/29/06, effective 3/10/06]
- [Filed emergency 5/5/06 after Notice 3/29/06—published 5/24/06, effective 5/5/06]
- [Filed emergency 8/25/06—published 9/27/06, effective 8/25/06]
- [Filed emergency 10/4/06 after Notice 8/30/06—published 10/25/06, effective 10/4/06]
- [Filed emergency 5/14/07—published 6/6/07, effective 5/14/07]
- [Filed emergency 6/27/07—published 8/1/07, effective 7/1/07]
- [Filed emergency 7/13/07—published 8/1/07, effective 7/13/07]
- [Filed emergency 9/7/07 after Notice 8/1/07—published 9/26/07, effective 9/7/07]
- [Filed emergency 12/18/07 after Notice 11/7/07—published 1/16/08, effective 1/1/08]
- [Filed emergency 1/9/08 after Notice 11/21/07—published 1/30/08, effective 1/9/08][◇]
- [Filed emergency 7/1/08—published 7/30/08, effective 7/1/08]
- [Filed emergency 7/11/08—published 7/30/08, effective 7/11/08]
- [Filed 7/17/08, Notice 6/4/08—published 8/13/08, effective 9/17/08]
- [Filed 12/5/08, Notice 7/30/08—published 12/31/08, effective 2/4/09]
- [Filed Emergency ARC 8045B, IAB 8/26/09, effective 7/27/09]
- [Filed ARC 8698B (Notice ARC 8541B, IAB 2/24/10), IAB 4/21/10, effective 6/15/10]
- [Filed Emergency ARC 8779B, IAB 6/2/10, effective 7/1/10]
- [Filed Emergency ARC 8777B, IAB 6/2/10, effective 5/7/10]
- [Filed Emergency ARC 9049B, IAB 9/8/10, effective 8/16/10]
- [Filed Emergency ARC 9139B, IAB 10/6/10, effective 9/16/10]
- [Filed Emergency ARC 9466B, IAB 4/20/11, effective 3/31/11]
- [Filed Emergency ARC 9559B, IAB 6/15/11, effective 5/23/11]
- [Filed Emergency ARC 9893B, IAB 11/30/11, effective 11/9/11]
- [Filed ARC 9879B (Notice ARC 9564B, IAB 6/15/11), IAB 11/30/11, effective 1/4/12]
- [Filed ARC 9891B (Notice ARC 9560B, IAB 6/15/11), IAB 11/30/11, effective 1/4/12]
- [Filed Emergency ARC 9989B, IAB 2/8/12, effective 1/17/12]
- [Filed Emergency ARC 0107C, IAB 4/18/12, effective 3/30/12]
- [Filed Emergency ARC 0109C, IAB 5/2/12, effective 4/6/12]
- [Filed Emergency ARC 0272C, IAB 8/8/12, effective 7/20/12]
- [Filed ARC 0266C (Notice ARC 0154C, IAB 6/13/12), IAB 8/8/12, effective 9/12/12]
- [Filed ARC 0616C (Notice ARC 0271C, IAB 8/8/12; Amended Notice ARC 0528C, IAB 12/12/12),
 IAB 2/20/13, effective 3/27/13]
- [Filed ARC 1549C (Notice ARC 1473C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
- [Filed ARC 1831C (Notice ARC 1735C, IAB 11/26/14), IAB 1/21/15, effective 2/25/15]

[◇] Two or more ARCs