481—58.12(135C) ADMISSION, TRANSFER, AND DISCHARGE.

58.12(1) General admission policies.

...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.

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.

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.

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.

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

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.
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.

**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;

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:

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);

b. State the method of payment of additional charges;

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;

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

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;

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

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. 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;

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;
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;

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.

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

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

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

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;

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

481—58.39 (135C) RESIDENTS’ RIGHTS IN GENERAL.

58.39(3) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

...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.

...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.

481—58.40(135C) INVOLUNTARY DISCHARGE OR TRANSFER.
58.40(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident’s welfare or that of other residents; for nonpayment for the resident’s stay (as contained in the contract for the resident’s stay), except as prohibited by Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396k by reason of action pursuant to Iowa Code chapter 229; by reason of negative action by the Iowa department of social services; and by reason of negative action by the professional standards review organization. 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 chapter 249A.

a. “Medical reasons” for transfer or discharge are based on the resident’s needs and are determined and documented in the resident’s record by the attending physician. Transfer or discharge may be required to provide a different level of care. In the case of transfer or discharge for the reason that the resident’s condition has improved such that the resident no longer needs the level of care being provided by the facility, the determination that such medical reason exists is the exclusive province of the professional standards review organization or utilization review process in effect for residents whose care is paid in full or in part by Title XIX.

b. “Welfare” of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might 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 the resident’s needs and rights). Evidence 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 be in writing and shall include specific information to support this determination.

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

1. If an emergency transfer or discharge is mandated by the resident’s health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred.

2. If 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, physician, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility.
If the discharge or transfer is the result of a final, non-appealable decision by the department of social services or the professional standards review organization.

d. The notice required by paragraph “c” shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge.

(2) The effective date of the proposed transfer or discharge.

(3) A statement in not less than 12-point type (elite), which reads: “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 state 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 receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may 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.”

e. A request for a hearing made under 58.40(1)”d”(3) shall stay a transfer or discharge pending a hearing or appeal decision.

f. The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department of elder affairs long-term care ombudsman of record not later than five full business days after receipt of request. This notice shall also inform the licensee, resident or responsible party that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing 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 Iowa department of elder affairs long-term care ombudsman shall have the right to appear at the hearing.

g. The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or representative requests in writing that it be closed.) The licensee or designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material...
to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

h. Based upon all testimony and materials submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department of elder affairs long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances. A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

i. A copy of the notice required by paragraph “c” 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, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department of elder affairs long-term care ombudsman.

j. 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 professional standards review organization (Iowa Foundation for Medical Care), appeals shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

k. 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.

l. The involuntary transfer or discharge shall be discussed 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 within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator’s designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made part of the resident’s record.
m. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident’s record.

(1) Counseling shall be provided by a qualified individual who meets one of the following criteria:

1. Has a bachelor’s or master’s degree in social work from an accredited college.

2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency.

3. Has been employed in a social work capacity for a minimum of four years in a public or private agency.

4. Is a licensed psychologist or psychiatrist.

5. Is any other person of the resident’s choice.

(2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged.

(3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause.

n. In the case of an emergency transfer or discharge as outlined in 58.40(1)”c”(1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident’s file and it must contain all the information required by 58.40(1)”d”(1) and (2). In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: “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 state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. 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 you may 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.” A hearing requested pursuant to this subrule shall be held in accordance with paragraphs “f,” “g,” and “h.”

o. 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 a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.
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(3)...The résumé of the program of care shall:

...c. List admission and discharge criteria...

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.