

PHARMACY BOARD [657]

Notice of Intended Action

The Board of Pharmacy hereby proposes to amend Chapter 1, “Purpose and Organization,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 155A.13C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.14, as amended by Senate File 2298 during the 2018 session of the 87th General Assembly, 147.19, 155A.2A, 155A.3, and 155A.13C.

Purpose and Summary

During the 2017 and 2018 sessions of the 87th General Assembly, Code changes were made to allow the Board to designate a pool of up to seven alternate board members, subject to approval by the governor, to hear contested case hearings when needed; add a Certified Pharmacy Technician to the composition of the board; update the definition of wholesale distributors and limited distributors; and to define third-party logistics providers. The proposed amendments incorporate language to implement such Code changes and provide general clerical updates where appropriate.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on _____, 2018. Comments should be directed to: Sue Mears, RPh, Compliance Officer, Iowa Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309; or via e-mail to sue.mears@iowa.gov.

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

ITEM 1. Amend rule 657—1.2(17A,147,272C) as follows:

657—1.2(17A,147,155A.2A,272C) Description and organization of board. The board is comprised of five pharmacist members, ~~and one certified pharmacy technician member,~~ and two representatives of the general public, all appointed by the governor. An administrative staff headed by a board-appointed executive director assists board members.

The board's authority for regulating the practice of pharmacy and the legal distribution and dispensing of prescription drugs and devices and of precursor substances in the state of Iowa is found in Iowa Code chapters 124, 124B, 126, 147, 155A, 205, and 272C.

ITEM 2. Amend rule 657—1.3(17A,272C) as follows:

657—1.3 (17A,272C) Responsibilities. The responsibilities of the board include but are not limited to:

1. to 2. No change.

3. Regulating the legal distribution of prescription drugs through the licensing of pharmacies, ~~and wholesalers~~ wholesale distributors, limited distributors, outsourcing facilities, and third-party logistics providers under the authority of Iowa Code chapter 155A.

4. to 8. No change.

9. Instituting disciplinary actions, hearing contested cases, issuing decisions and orders, and enforcing the terms of disciplinary orders filed against licensees, registrants, or permit holders for grounds provided in Iowa Code sections 124.303, 124.304, 124B.12, 147.55, 155A.6, 155A.6A, 155A.6B, 155A.12, 155A.13, 155A.13A, 155A.15, ~~and 155A.17,~~ 155A.17A, and 155A.42, as appropriate.

10. No change.

11. Registering pharmacists in charge of nonresident pharmacies pursuant to the authority of Iowa Code chapter 155A.

ITEM 3. Amend rule 657—1.4(17A,272C) as follows:

657—1.4(17A,272C) Submission of complaints and requests. Members of the general public may obtain information or submit requests or complaints relative to the practice of pharmacy, continuing education for pharmacists, the legal distribution and dispensing of prescription drugs, or any other matters relating to the function and authority of the board. Correspondence should be submitted to the Executive Director, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. Communication may also be submitted via the board's website at ~~www.state.ia.us/ibpe~~ <https://pharmacy.iowa.gov>.

ITEM 4. Amend rule 657—1.5(17A,21) as follows:

657—1.5(17A,21) Meetings. All meetings of the board shall be open and public, and all members of the public shall be permitted to attend any meeting unless Iowa Code section 21.5 or another provision of law authorizes a closed session. Closed session shall only be by affirmative public vote of either two-thirds of the members of the board or all of the members present at the meeting.

1.5(1) No change.

1.5(2) *Meeting schedule and public notice.* The board shall set the dates of its meetings at the first meeting following May 1 of each fiscal year. Notices of meetings shall be routinely posted in the space set aside for that purpose in the office of the board and on the board's website at ~~www.state.ia.us/ibpe~~ <https://pharmacy.iowa.gov>. Members of the general public may obtain the dates, times, and locations of board meetings by submitting a request to the Executive Director, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by accessing the board's website.

1.5(3) No change.

1.5(4) Minutes of meetings. The executive ~~secretary~~ director shall keep a record of all minutes of the board, and these minutes, except as otherwise provided by statute, shall be open to the public for inspection.

1.5(5) No change.

~~Rules 657—1.1(17A) through 657—1.5(17A,21) are intended to implement Iowa Code sections 17A.3, 21.3 through 21.5, 124.301, 147.14, 147.76, 155A.2, 272C.3, and 272C.4.~~

ITEM 5. Amend rule 657—1.6(124,147,155A) as follows:

657—1.6 (124,147,155A) Fee for returned check. A nonrefundable fee of \$20 may be charged for a check returned for any reason. If a license, registration, or permit has been issued by the board ~~office~~ based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check, cashier's check, or money order. If the fees, including the fee for a returned check, are not paid within 15 calendar days of notification of the returned check, the license, registration, or permit is no longer in effect and the status reverts to what it would have been had the license, registration, or permit not been issued. Late payment penalties will be assessed, as provided in board rules, for subsequent requests to renew or reissue the license, registration, or permit.

ITEM 6. Adopt the following new rule(s) 657—1.8(155A.2A):

657—1.8(155A.2A) Alternate board members. The board may have a pool of up to seven alternate members, to include individuals that may or may not be licensed to practice under Chapter 155A, to substitute for board members unable to participate in a contested case hearing. Utilization of such alternate board members shall be in compliance with Iowa Code section 155A.2A. Whenever there are less than seven individuals serving in the pool of alternate board

members, the executive director may present a list of individuals eligible to serve in the pool to the board for approval. The board may select individuals to serve as alternate board members, subject to approval by the governor. The term of each alternate board member shall begin on the first day of the month following approval by the governor and shall last for three years or until the alternate board member resigns, whichever occurs first. An alternate board member may serve no more than nine years as an alternate board member. Upon approval of the governor of an alternate board member, the executive director may select that alternate board member to hear a contested case when a sufficient number of board members is unavailable to hear a contested case for any reason.

ITEM 7. Amend **657—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3, 21.3 through 21.5, 124.301, 124B.11, 147.14, 147.76, 147.96, 155A.2, 155A.2A, 155A.6, 155A.6A, 155A.6B, 155A.11, 155A.13, 155A.13A, 155A.13C, 155A.14, and 155A.15, 155A.17, 155A.17A, 155A.42, 272C.3, and 272C.4.