

## **PHARMACY BOARD [657]**

### **Notice of Intended Action**

The Board of Pharmacy hereby proposes to amend Chapter 3, “Pharmacy Technicians,” and Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 155A.6A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 147.80 and 155A.6A.

#### *Purpose and Summary*

The proposed amendments are a result of an overall 5 year review as required by Iowa Code section 17A.7(2). The proposed amendments:

- Require technicians to be registered prior to commencing employment in a pharmacy or as part of a technician training program,
- Modify the renewal period for certified pharmacy technicians to match their national certification period and to align with renewal process for other licenses and registrations,
- Allow the board to assess a \$15 fee for written verification of a registration,
- Provide more broad language relating to the delegation of non-clinical pharmacy functions to a pharmacy technician beyond those related solely to dispensing,
- Prohibit a pharmacy license holder from requiring a supervising pharmacist to delegate functions to a technician against the pharmacist’s professional judgment,
- Require pharmacy technicians to report to the board within 30 days of any criminal conviction or disciplinary action taken,
- Simplify, clarify, and condense rules,
- Incorporate language reflecting the board’s new online application process, and
- Update references.

#### *Fiscal Impact*

This rule making has unknown fiscal impact to the state of Iowa. It is unknown how many technicians will request written verification of their registration when the board’s online verification system is free. Further, it is inherent that the board will continue to process untimely renewal applications which result in collection of late penalty fees or reactivation fees. For renewal

applications that are submitted within the first month after the registration has expired, the renewal fee and late penalty fee do not change from what is currently assessed. Under the proposed change, renewal applications that are submitted beyond the first month following expiration would include a fee of \$160 instead of the current fee range of \$90 - \$110. It is estimated that the Board would have increased annual revenue of between \$600 and \$840 due to the change.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs is anticipated.

#### *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 \_\_\_\_\_, 2020. Comments should be directed to:

Sue Mears, RPh

Iowa Board of Pharmacy

400 S.W. 8<sup>th</sup> Street, Suite E

Des Moines, IA 50309

#### *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—3.1(155A)~~, definition of “*Pharmacy technician*,” as follows:

“*Pharmacy technician*” or “*technician*” means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, as provided in ~~rules 657—3.22(155A) through 657—3.24(155A)~~ subrule 3.21(1), and includes a certified pharmacy technician and a pharmacy technician trainee.

ITEM 2. Amend rule 657—3.3(155A) as follows:

**657—3.3 (155A) Registration required.** Any person employed in Iowa as a pharmacy technician, ~~except a pharmacist intern whose pharmacist intern registration is in good standing with the board,~~ shall obtain and maintain during such employment a current registration as a certified pharmacy technician or pharmacy technician trainee pursuant to these rules. An individual ~~accepting~~ commencing employment as a pharmacy technician in Iowa who fails to register as a certified pharmacy technician or pharmacy technician trainee as provided by these rules may be subject to disciplinary sanctions. A certified pharmacy technician ~~accepting~~ commencing employment as a certified pharmacy technician in Iowa who fails to register as a certified pharmacy technician or who fails to maintain national certification may be subject to disciplinary sanctions. A pharmacist-intern with a current registration or a pharmacist with a current license is not required to obtain a pharmacy technician registration to work as a pharmacy technician.

**3.3(1)** No change.

**3.3(2)** ~~Original application~~ Application required. Any person not currently registered with the board as a pharmacy technician shall complete the appropriate application for registration ~~within 30 days of accepting~~ prior to commencement of employment in an Iowa pharmacy as a pharmacy technician. ~~Such application shall be received in the board office before the expiration of this 30-day period.~~

**3.3(3)** *Technician training.* A person who is enrolled in a college-based or American Society of Health-System Pharmacists (ASHP)-accredited technician training program shall obtain a pharmacy technician trainee registration prior to beginning on-site practical experience. A person who is employed in a pharmacy and who is receiving pharmacy technician training through work experience shall obtain a pharmacy technician trainee registration ~~within 30 days of~~ prior to the commencement of pharmacy technician training.

**3.3(4)** No change.

ITEM 3. Rescind rule 657—3.8(155A) and adopt the following **new** rule in lieu thereof:  
**657—3.8(155A) Application.** An applicant shall submit a completed application along with the appropriate nonrefundable application fee pursuant to rule 657—3.9(155A) or 657—3.10(155A). The application shall include:

1. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;
2. Current place or places of employment;
3. Criminal or disciplinary action history;
4. If applying for certified pharmacy technician registration, documentation of current national pharmacy technician certification; and
5. Any other information deemed necessary by the board.

ITEM 4. Rescind rule 657—3.9(155A) and adopt the following **new** rule in lieu thereof:  
**657—3.9(155A) Registration fee and term – technician trainee.**

**3.9(1) Fee.** The nonrefundable application fee for a pharmacy technician trainee registration shall be \$20 which shall be submitted in the form of a personal check, certified check, cashier's check, or money order made payable to the Iowa Board of Pharmacy when submitted with a written application or by acceptable debit or credit card when submitted with an online application.

**3.9(2) Term.** A pharmacy technician trainee registration shall expire on the last day of the registration month 12 months following the date of registration. A pharmacy technician trainee registration shall not be renewed.

*a. National certification completed.* When the registered pharmacy technician trainee completes national certification, and no later than the expiration of the pharmacy technician trainee registration, the technician shall submit a completed application and nonrefundable application fee for certified pharmacy technician registration.

*b. Expiration of registration.* The registration of a pharmacy technician trainee who fails to complete national certification prior to the expiration of the registration shall expire and the technician shall cease practice as a pharmacy technician.

ITEM 5. Rescind rule 657—3.10(155A) and adopt the following **new** rule in lieu thereof:  
**657—3.10(155A) Registration fee, term, and renewal – certified pharmacy technician.**

**3.10(1) Fee.** The nonrefundable application fee for a certified pharmacy technician registration shall be \$40 per biennium which shall be submitted in the form of a personal check, certified check, cashier's check, or money order made payable to the Iowa Board of Pharmacy when submitted with a written application or by acceptable debit or credit card when submitted with an online application.

**3.10(2) Term.** A certified pharmacy technician registration shall expire on the date that the technician's national certification expires.

**3.10(3) Renewal.** A certified pharmacy technician registration shall be renewed prior to the expiration of the registration.

*a. Delinquent registration grace period.* A certified pharmacy technician registration which is not renewed prior to the expiration of the registration shall be considered delinquent. Renewal during the month following the expiration date of the registration shall include the nonrefundable registration fee pursuant to subrule 3.10(1) and a nonrefundable late penalty fee of \$40. A registered certified pharmacy technician who renews during the month following the expiration date of the registration shall not be subject to disciplinary action for continuing to practice as a pharmacy technician during the delinquency of the registration.

*b. Registration reactivation beyond grace period.* If the registration is not renewed prior to the expiration of the one-month grace period identified in paragraph "a," the technician shall cease the practice as a pharmacy technician until the registration is reactivated. A certified pharmacy technician without a current registration may apply for registration reactivation by submitting a completed application for reactivation and a nonrefundable reactivation fee of \$160. An individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

*c. Voluntary cancellation.* A registered certified pharmacy technician who ceases practice as a pharmacy technician and does not intend to renew the registration prior to its expiration may request that the board cancel the registration. If the certified pharmacy technician later seeks registration as a certified pharmacy technician, the technician shall not be assessed a late penalty fee or reactivation fee for renewal of the registration.

ITEM 6. Rescind rule 657—3.11(155A) and adopt the following **new** rule in lieu thereof:

**657—3.11(155A) Verification fee.** The Board may require the submission of a nonrefundable fee of \$15 for written verification of a registration.

ITEM 7. Rescind and reserve rule **657—3.12(155A)**.

ITEM 8. Amend rule 657—3.20(155A) as follows:

**657—3.20 (155A) Responsibility of supervising pharmacist.** The ultimate responsibility for the actions of a pharmacy technician shall remain with the supervising pharmacist. A pharmacy license holder shall not infringe on the authority of a supervising pharmacist to delegate or decline to delegate specific functions to a pharmacy technician based on the supervising pharmacist's professional judgment regarding the knowledge and training of the technician.

ITEM 9. Amend rule 657—3.21(155A) as follows:

**657—3.21(155A) Delegation of functions.**

~~3.21(1) Technical dispensing functions.~~ Pursuant to established policies and procedures and the supervising pharmacist's professional judgment, a pharmacist may delegate any technical, or nontechnical dispensing functions in the operation of the pharmacy, except those which are prohibited pursuant to rule 657—3.23(155A), to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate, or as provided for telepharmacy in 657—Chapter 13. Except as provided for an approved technician product verification program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

~~3.21(2) Nontechnical functions.~~ A pharmacist may delegate nontechnical functions to a pharmacy technician or a pharmacy support person only if the pharmacist is present to supervise the pharmacy technician or pharmacy support person when delegated nontechnical functions are performed, except as provided in rule 657—6.7(124,155A) or 657—7.6(155A), as appropriate, or as provided for telepharmacy in 657—Chapter 13.

ITEM 10. Rescind and reserve rule **657—3.22(155A)**.

ITEM 11. Amend rule 657—3.23(155A) as follows:

**657—3.23(155A) Tasks Functions a pharmacy technician shall not perform.**

**3.23(1) Prohibited functions for all pharmacy technicians.** A pharmacy technician shall not be authorized to perform any of the following ~~judgmental tasks~~ functions:

1. through 6. No change.

**3.23(2) Prohibited functions for technician trainees.** In addition to the prohibited functions in subrule 3.23(1), a technician trainee shall not be authorized to perform any of the following functions:

1. Accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or the prescriber's agent.

2. Transfer or receive by transfer by any means the original prescription drug order information or prescription refill information of a prescription for any substance.

ITEM 12. Rescind and reserve rule **657—3.24(155A)**.

ITEM 13. Amend rule 657—3.28(155A), introductory paragraph, as follows:

**657—3.28 (147,155A) Unethical conduct or practice.** Violation by a pharmacy technician of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule ~~657—3.30(155A)~~ 657—3.31(155A).

ITEM 14. Renumber rule **657—3.30(155A)** as **657—3.31(155A)**.

ITEM 15. Adopt the following new rule(s) 657—3.30(155A):

**657—3.30(155A) Reporting discipline and criminal convictions.** A registered pharmacy technician shall provide written notice and unredacted documents to the board of any disciplinary or enforcement action imposed by any licensing agency or regulatory authority on any license or registration held by the registered pharmacy technician no later than 30 days after the final action. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, and voluntary surrender. A registered pharmacy technician shall provide written notice to the board of any criminal conviction that is related to the practice of pharmacy or controlled substances no later than 30 days after the conviction. The term criminal conviction includes instances when the judgment of conviction or sentence is deferred.

ITEM 16. Amend **657—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 147.72, 147.80, 147.107, 155A.6A, 155A.23, 155A.33, 155A.34, and 155A.39.

ITEM 17. Amend subrule 6.9(3) as follows:

**6.9(3) *Authorized individuals and means of transmission.*** Individuals authorized to engage in the transfer of prescriptions include a pharmacist, a pharmacist-intern under the direct supervision of a pharmacist, and a certified pharmacy technician ~~only as authorized in rule 657—3.22(155A)~~, except as prohibited in subrule 3.23(1). The transferring individual may transmit the prescription and transfer information required under subrule 6.9(5) from the transferring pharmacy via electronic means pursuant to subrule 6.9(8) or, following direct communication between authorized individuals, via oral or facsimile transmission. The receiving individual shall ensure the prescription transfer record maintained in the receiving pharmacy contains all of the information required under subrule 6.9(7).