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The Iowa Administrative Code (IAC) Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement is a compilation of updated Iowa Administrative Code chapters that reflect rule changes which have been adopted by agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17, 17A.4, and 17A.5 and published in the Iowa Administrative Bulletin bearing the same publication date as the one for this Supplement. To determine the specific changes to the rules, refer to the Iowa Administrative Bulletin. To maintain a loose-leaf set of the IAC, insert the chapters according to the instructions included in the Supplement.

In addition to the rule changes adopted by agencies, the 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 or suspension imposed by the ARRC pursuant to section 17A.8(9) or 17A.8(10); rescission of a rule by the Governor pursuant to section 17A.4(8); nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa; other action relating to rules enacted by the General Assembly; updated chapters for the Uniform Rules on Agency Procedure; or an editorial change to a rule by the Administrative Code Editor pursuant to Iowa Code section 2B.13(2).

# 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

### **Alcoholic Beverages Division[185]**

Replace Analysis

Replace Chapter 1

Replace Chapters 4 and 5

Replace Chapter 8

Remove Chapters 17 and 18

Insert Reserved Chapter 17 and Chapter 18

### **Medicine Board[653]**

Replace Analysis

Replace Chapter 9

Replace Chapter 18



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Created within the Department of Commerce by 1986 Iowa Acts, Senate File 2175.  
Formerly Beer and Liquor Control Department[150]

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CHAPTER 1  
ORGANIZATION AND OPERATION  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

**185—1.1(123,17A) Purpose.** This chapter describes the organization and operation of the alcoholic beverages division, including the offices where and the means by which any interested person may obtain information and make submittals or requests.

**185—1.2(123,17A) Scope and rules.** Promulgated under Iowa Code chapters 17A and 123, these rules shall apply to all matters before the alcoholic beverages division. No rule shall in any way relieve a certificate of compliance holder, manufacturer, native distiller, vintner, brewer, wholesaler, alcohol carrier, wine direct shipper, retail alcohol licensee or wine permittee or beer permittee, or an agent or employee thereof from any duty under the laws of this state.

This rule is intended to implement Iowa Code section 123.4.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—1.3(123,17A) Duties of the division.** The alcoholic beverages division administers the laws of this state concerning alcoholic liquor, wine, and beer. The division is vested with the sole and exclusive control within the state of Iowa both as purchaser and vendor of all alcoholic liquor sold by distilleries within the state or imported therein, except wine and beer, except as otherwise provided by law.  
[ARC 0273C, IAB 8/8/12, effective 9/12/12]

**185—1.4(123,17A) Organization.**

**1.4(1) Commission.** The alcoholic beverages division consists of five commission members appointed by the governor and confirmed by the senate. The commission acts as a policy-making body and serves in an advisory capacity to the administrator. A quorum shall consist of at least three commission members.

**1.4(2) Administrator.** Subject to senate confirmation, the governor appoints an administrator who conducts the daily operations of the division as prescribed by Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.5, 123.6, 123.9, and 123.10.  
[ARC 0273C, IAB 8/8/12, effective 9/12/12]

**185—1.5(123,17A) Central offices.** The central office is located at 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021; telephone (515)281-7400 or 1-866-469-2223. The central office is responsible for the operational support of the division and is the principal custodian of all divisional orders, statements of law or policy issued by the division, and other public documents on file with the division.

This rule is intended to implement Iowa Code section 123.4.  
[ARC 0273C, IAB 8/8/12, effective 9/12/12]

**185—1.6(123,17A) Matters applicable to all proceedings.**

**1.6(1) Communications.** All communications to the division shall be addressed to the Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021, unless otherwise directed. Bids, complaints, pleadings, or other papers required to be filed with the division shall be filed in the office of the administrator within the time limit, if any, for such filing. Unless otherwise provided, all communications and documents are officially filed upon receipt at the office of the division.

**1.6(2) Office hours.** Office hours are 8 a.m. to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays, Sundays, and official state holidays designated in accordance with state laws.

**1.6(3) Public information.** Any interested person may examine all public records of the division including the decisions, orders, rules, opinions, and other statements of law or policy issued by the division in the discharge of its function. These documents may be examined in the offices of the division during regular business hours or on the website of the division located at [www.IowaABD.com](http://www.IowaABD.com).

Unless otherwise provided by law, all information contained therein shall be made available for public inspection.

[ARC 0273C, IAB 8/8/12, effective 9/12/12]

These rules are intended to implement Iowa Code sections 123.4, 123.5, 123.6, 123.9, 123.10, and 17A.3.

[Filed 12/14/72]

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[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]<sup>1</sup>

[Editorially transferred from [150] to [185], IAC Supp. 10/8/86; see IAB 7/30/86]

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[Filed ARC 7073C (Notice ARC 7049C, IAB 7/26/23), IAB 9/20/23, effective 10/25/23]

<sup>1</sup> Two ARCs. See Alcoholic Beverages Division, IAB 7/30/86

CHAPTER 4  
RETAIL ALCOHOL LICENSES—BEER PERMITS—WINE PERMITS

[Ch 4, IAC 7/1/75 rescinded 3/7/79; see Chs 4,5]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

**185—4.1(123) Definitions.**

“*Act*” means the alcoholic beverage control Act.

“*Administrator*” means the chief administrative officer of the alcoholic beverages division or a designee.

“*Beverages*” as used in Iowa Code section 123.3(21) does not include any alcoholic beverage as defined in Iowa Code section 123.3(4).

“*Division*” means the alcoholic beverages division of the department of commerce.

This rule is intended to implement Iowa Code sections 123.3 and 123.4.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.2(123) General requirements.** All applicants for licenses, permits, or certificates of compliance shall comply with the following requirements, where applicable, prior to receiving a license, permit, or certificate of compliance.

**4.2(1) Cleanliness of premises.** The interior and exterior of the licensed premises shall be kept clean, free of litter or rubbish, painted and in good repair. Licensees and permittees shall at all times keep and maintain their respective premises in compliance with the laws, orders, ordinances and rules of the state, county and city health and fire departments, and the Iowa department of inspections and appeals.

**4.2(2) Toilet facilities.** All licensees and permittees who mix, serve, or sell alcoholic beverages for consumption on the licensed premises shall provide for their patrons adequate, conveniently located indoor or outdoor toilet facilities. Compliance with county, city, and department of inspections and appeals’ rules and regulations regarding toilet facilities, including any waivers granted by those authorities, shall constitute compliance with this rule. Outdoor toilet facilities shall be approved by the department of inspections and appeals and the local approving authority where the licensed premises is located.

**4.2(3) Water.** All licensed premises shall be equipped with hot and cold running water from a source approved by an authorized health department.

**4.2(4) Financial standing and reputation.** A local authority or the administrator may consider an applicant’s financial standing and good reputation in addition to the other requirements and conditions for obtaining a license, permit, or certificate of compliance, and the local authority or the administrator shall disapprove or deny an application for a license, permit, or certificate of compliance if the applicant fails to demonstrate that the applicant complies with the lawful requirements and conditions for holding the license, permit, or certificate of compliance.

*a.* In evaluating an applicant’s “financial standing,” the local authority or the administrator may consider such factors as, but not limited to, the following:

(1) Verified source(s) of financial support and adequate operating capital for the applicant’s proposed establishment.

(2) A record of timely submission of all required federal, state, or local tax returns or forms and prompt payment of all taxes due.

(3) A record of prompt payment to the local authority of fees or charges made by a local authority for municipal utilities or other municipal services incurred in conjunction with the proposed establishment.

(4) A record of prompt payment or satisfaction of administrative penalties imposed pursuant to Iowa Code chapter 123.

(5) A record of maintaining, and providing prompt payment for, dramshop liability insurance coverage as required pursuant to Iowa Code chapter 123.

(6) A record of prompt payment for license, permit, or certificate fees.

(7) A record of prompt payment for alcoholic liquor orders placed with the division.

*b.* In evaluating an applicant's "good reputation," the local authority or the administrator may consider such factors as, but not limited to, the following:

(1) A pattern or practice of sales of alcoholic beverages to persons under the legal age for which the licensee or permittee, or the licensee's or permittee's agents or employees, have pled or have been found guilty.

(2) A pattern or practice by the licensee or permittee, or the licensee's or permittee's agents or employees, of violating alcoholic beverages laws and regulations for which corrective action has been taken since the previous license or permit was issued.

(3) Sales to intoxicated persons.

(4) Licensee or permittee convictions for violations of laws relating to operating a motor vehicle while under the influence of drugs or alcohol and the recency of such convictions.

(5) Licensee or permittee misdemeanor convictions and the recency of such convictions.

(6) A pattern or practice by the licensee or permittee, or the licensee's or permittee's agents or employees, of failing to cooperate with the department of public safety, the division, the county attorney, the county sheriff and sheriff's deputies, the city police department, or the city attorney.

(7) A pattern or practice by the licensee or permittee of violating local ordinances established by the local authority pursuant to Iowa Code section 123.39(2).

(8) A pattern or practice by the licensee of failing to report any change in the ownership or interest of the business pursuant to Iowa Code section 123.39(1)"*b*"(3).

This rule is intended to implement Iowa Code sections 123.3(40) and 123.10(11).  
[ARC 5392C, IAB 1/13/21, effective 2/17/21; ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.3(123) Local ordinances permitted.** The foregoing rules shall in no way be construed as to prevent any county, city or town from adopting ordinances or regulations, which are more restrictive, governing licensed establishments within their jurisdiction.

This rule is intended to implement Iowa Code section 123.39.

**185—4.4(123) Licensed premises.** The following criteria must be met before a "place" (as used in Iowa Code section 123.3(29)) may be licensed as a "place susceptible of precise description satisfactory to the administrator."

**4.4(1)** The "place" must be owned by or under the control of the prospective licensee or permittee.

**4.4(2)** The "place" must be solely within the jurisdiction of one local approving authority.

**4.4(3)** The "place" must be described by a sketch of the "premises" as defined in Iowa Code section 123.3(29) and showing the boundaries of the proposed "place"; showing the locations of selling/serving areas within the confines of the "place"; showing all entrances and exits; and indicating the measurements of the "place" and distances between selling/serving areas.

**4.4(4)** The "place" must satisfy the health, safety, fire and seating requirements of the division, local authorities and the Iowa department of inspections and appeals.

**4.4(5)** Any other criteria as required by the administrator.

This rule is intended to implement Iowa Code sections 123.3(29) and 123.4.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.5(123) Mixed drinks or cocktails not for immediate consumption.** A class "C," class "D," or class "F" retail alcohol licensee may mix, store, and allow the consumption of mixed drinks or cocktails which are not for immediate consumption for up to 72 hours, subject to the requirements and restrictions provided in Iowa Code section 123.49(2)"*d*" and this rule.

**4.5(1) Definitions.**

"*Immediate consumption,*" for the purposes of this rule, means the compounding and fulfillment of a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.

"*Mixed drink or cocktail,*" for the purposes of this rule, means an alcoholic beverage as defined in Iowa Code section 123.3(32).

**4.5(2) Location.** Mixed drinks or cocktails which are not for immediate consumption shall be mixed, stored, and consumed on the retail alcohol licensed premises.

**4.5(3)** No change.

**4.5(4) Container.** A mixed drink or cocktail which is not for immediate consumption shall at all times be in a container compliant with applicable state and federal food safety statutes and regulations.

*a.* The mixed drink or cocktail shall be mixed and remain stored in the same container.

*b.* The mixed drink or cocktail shall be removed from the stored container for one of the following dispensing purposes:

(1) To compound and fulfill a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.

(2) For transfer into a pourable container. The pourable container shall have affixed a label compliant with subrule 4.5(5) displaying label information identical to that on the container from which the contents were poured. The expiration date and time shall not be extended by the transfer of product to a pourable container.

*c.* The mixed drink or cocktail may be strained into another container when each of the following conditions is met:

(1) The mixed drink or cocktail is returned without delay to the labeled container from which it was strained.

(2) The container and process are compliant with applicable state and federal food safety statutes and regulations.

*d.* An original package of alcoholic liquor as purchased from the division or an original package of wine shall not be used to mix, store, or dispense a mixed drink or cocktail, pursuant to Iowa Code section 123.49(2) “*d*” and “*e*.”

*e.* The mixed drink or cocktail shall not be mixed, stored, or dispensed from a container bearing an alcoholic beverage name brand.

**4.5(5) Label.** A label shall be placed on a container when the contents of the mixed drink or cocktail are placed into the empty container.

*a.* Contents are defined in subrule 4.5(6).

*b.* The label shall be subject to the following requirements and restrictions:

(1) The label shall be affixed to the container in a conspicuous place.

(2) The label shall legibly identify the month, day, and year the contents are placed into the empty container.

(3) The label shall legibly identify the time the contents were placed into the empty container. The time shall be reported to the minute utilizing the 12-hour clock, and include either the ante meridian (AM) or post meridian (PM) part of time.

(4) The label shall legibly identify the month, day, and year the contents expire.

(5) The label shall legibly identify the time the contents expire. The time shall be reported in the same manner as reported in subparagraph 4.5(5) “*b*”(4).

(6) The label shall legibly specify the title of the recipe used for the contents of the container.

(7) The label shall legibly identify the person who prepared the contents of the container.

(8) The label shall legibly identify the size of the batch within the container and be conspicuously marked with the words “CONTAINS ALCOHOL.”

(9) The label shall be removed from the container once the entire contents have been consumed, transferred to a pourable container pursuant to subparagraph 4.5(4) “*b*”(2), or destroyed and disposed of in accordance with applicable law.

(10) A label shall not be reused, nor shall a removed label be reapplied to a container.

(11) A new label, subject to the requirements and restrictions of paragraph 4.5(5) “*b*,” shall be placed on the container for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

*c.* A licensee may access a label template on the website of the division located at [www.IowaABD.com](http://www.IowaABD.com).

**4.5(6) Contents.** Contents include alcoholic beverages, nonalcoholic ingredients, or combination thereof, which are not for immediate consumption.

a. A licensee is limited to utilizing alcoholic beverages in the mixed drink or cocktail which are authorized by the license.

b. A licensee shall utilize alcoholic beverages in the mixed drink or cocktail which are obtained as prescribed by Iowa Code chapter 123.

c. The added flavors and other nonbeverage ingredients of the mixed drink or cocktail shall not include hallucinogenic substances, added caffeine or added stimulants including but not limited to guarana, ginseng, and taurine, or a controlled substance as defined in Iowa Code section 124.401.

**4.5(7) Disposal.**

a. Any mixed drink or cocktail, or portion thereof, not consumed within 72 hours of the contents' being placed into the empty container is expired and shall be destroyed and disposed of in accordance with applicable law.

b. An expired mixed drink or cocktail which is not for immediate consumption shall not be:

- (1) Added to an empty container and relabeled; or
- (2) Added to another mixed drink or cocktail which is not for immediate consumption.

**4.5(8) Records.** A licensee shall maintain accurate and legible records for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

a. Records shall contain:

- (1) The month, day, and year the contents are placed into the empty container.
- (2) The time the contents are placed into the empty container. The time shall be reported in the same manner as reported in subparagraph 4.5(5) "b"(4).
- (3) Each alcoholic beverage, including the brand and the amount, placed in the container. The amount of each alcoholic beverage shall be reported utilizing the metric system.
- (4) Each nonalcoholic ingredient placed in the container.
- (5) The recipe title and directions for preparing the contents of the container.
- (6) The size of the batch.
- (7) The identity of the person who prepared the contents of the container.
- (8) The month, day, and year the contents of the container are destroyed and disposed of or entirely consumed.
- (9) The time the contents of the container are destroyed and disposed of or entirely consumed. The time shall be reported in the same manner as reported in subparagraph 4.5(5) "b"(4).
- (10) The method of destruction and disposal or shall specify that the entire contents were consumed.
- (11) The identity of the person who destroyed and disposed of the contents, if the contents were not consumed.

b. A licensee may access record-keeping forms on the website of the division located at [www.IowaABD.com](http://www.IowaABD.com), by sending a request by fax to (515)281-7375, or by sending a request by mail to Alcoholic Beverages Division, 1918 SE Hulsizer Road, Ankeny, Iowa 50021.

c. Records shall be maintained on the licensed premises for a period of three years and shall be open to inspection pursuant to Iowa Code section 123.33.

**4.5(9) Dispensing machines.** A dispensing machine which contains a mixed drink or cocktail with alcoholic beverages is subject to the requirements and restrictions of this rule.

**4.5(10) Food safety compliance.** A licensee who mixes, stores, and allows the consumption of mixed drinks or cocktails which are not for immediate consumption shall comply with all applicable state and federal food safety statutes and regulations.

**4.5(11) Federal alcohol compliance.** A licensee who mixes, stores, and allows the consumption of mixed drinks or cocktails which are not for immediate consumption shall comply with all applicable federal statutes and regulations. Prohibitions include but are not limited to processing with non-tax-paid alcoholic liquor, aging alcoholic liquor in barrels, heating alcoholic liquor, bottling alcoholic liquor, and refilling alcoholic liquor or wine bottles.

**4.5(12) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions of Iowa Code section 123.39.

This rule is intended to implement Iowa Code section 123.49(2).



**185—4.6(123) Filling and selling of beer in a container other than the original container.** Class “B,” class “C,” special class “C,” and class “E” retail alcohol licensees and the licensee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code section 123.31A and this rule.

**4.6(1) Definitions.**

“*Beer*,” for the purposes of this rule, means “beer” as defined in Iowa Code section 123.3(7) and “high alcoholic content beer” as defined in Iowa Code section 123.3(22).

“*Growler*,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold beer or high alcoholic content beer.

“*Original container*,” for the purposes of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture. For special class “A” beer permit holders, an “original container” includes a tank used for storing and serving beer.

**4.6(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee’s or permittee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the sale.
- d. A growler shall be filled or refilled only with beer from the original container procured from a class “A” beer permittee unless the beer being used to fill or refill a growler on the premises of a special class “A” beer permit holder was manufactured by that special class “A” beer permit holder on the permitted premises.
- e. A retailer may exchange a growler to be filled or refilled.
- f. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.6(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee’s or permittee’s employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.
- d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

**4.6(4) Restrictions.**

- a. A growler shall not be filled in advance of a sale.
- b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- d. A licensee or permittee or a licensee’s or permittee’s employees shall not allow a consumer to fill or refill a growler.
- e. The filling, refilling and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.
- f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.
- g. An original container shall only be opened on the premises of a class “B” or class “E” retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.6(5) No change.**

This rule is intended to implement Iowa Code section 123.31A.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.7(123) Improper conduct.**

**4.7(1) *Illegality on premises.*** No retail alcohol licensee, or the licensee's agent or employee, shall engage in any illegal occupation or illegal act on the licensed premises.

**4.7(2) *Cooperation with law enforcement officers.*** No retail alcohol licensee, or the licensee's agent or employee, shall refuse, fail or neglect to cooperate with any law enforcement officer in the performance of such officer's duties to enforce the provisions of the Act.

**4.7(3) *Illegal activities.*** No retail alcohol licensee, or the licensee's agent or employee, shall knowingly allow in or upon the licensed premises any conduct as defined in Iowa Code sections 725.1, 725.2, 725.3, 728.2, 728.3 and 728.5.

**4.7(4) *Frequenting premises.*** No retail alcohol licensee, or the licensee's agent or employee, shall knowingly permit the licensed premises to be frequented by or become the meeting place, hangout or rendezvous for known pimps, panhandlers or prostitutes, or those who are known to engage in the use, sale or distribution of narcotics, or in any other illegal occupation or business.

**4.7(5) *Open containers of alcoholic beverages.*** No retail alcohol licensee, or the licensee's agent or employee, shall allow any filled, partially filled, or empty liquor glasses or liquor bottles to be taken off the licensed premises, excluding mixed drinks or cocktails pursuant to Iowa Code section 123.49(2) "d"(3). A class "E" retail alcohol licensee, or the licensee's agent or employee, shall not permit other licensees or consumers to remove partially filled, empty, open or unsealed containers of alcoholic liquor from the class "E" retail alcohol licensed premises.

**4.7(6) *Identifying markers.*** A licensee shall not keep on the licensed premises nor use for resale alcoholic liquor which does not bear identifying markers as prescribed by the administrator of the division. Identifying markers shall demonstrate that the alcoholic liquor was lawfully purchased from the division.

This rule is intended to implement Iowa Code section 123.49(2).  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.8(123) Violation by agent, servant or employee.** Any violation of the Act or the rules of the division by any employee, agent or servant of a licensee shall be deemed to be the act of the licensee and shall subject the license of said licensee to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49(2).  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.9(123) Gambling evidence.** The intentional possession or willful keeping of any gambling device as defined in Iowa Code section 725.9 upon the premises of any establishment licensed by the division shall be prima facie evidence of a violation of Iowa Code section 123.49(2) "a" and subject the license of said licensee to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.10(123) Filling and selling of mixed drinks or cocktails in a container other than the original container.** Class "C" and class "C" native distilled spirits liquor control licensees and the licensee's employees may fill and sell mixed drinks or cocktails in a container other than the original container subject to the requirements and restrictions provided in 2020 Iowa Acts, House File 2540, sections 10, 11, 12, and 13, and this rule.

**4.10(1) *Definitions.***

*"Alcoholic liquor,"* for the purposes of this rule, means "alcoholic liquor" as defined in Iowa Code section 123.3(5).

*"Mixed drink or cocktail,"* for the purposes of this rule, means "mixed drink or cocktail" as defined in Iowa Code section 123.3(32).

*"Native distilled spirits,"* for the purposes of this rule, means "native distilled spirits" as defined in Iowa Code section 123.3(34).

“*Original container*,” for the purposes of this rule, means a vessel containing alcoholic liquor or native distilled spirits that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“*Sealed container*,” for the purposes of this rule, means a vessel containing a mixed drink or cocktail that is designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. “Sealed container” does not include a container with a lid with sipping holes or openings for straws, a cup made of plastic that is intended for one-time use, or a cup made of paper or polystyrene foam.

“*Tamper-evident*,” for the purposes of this rule, means a lid, cap, or seal that visibly demonstrates when a container has been opened.

**4.10(2) Filling requirements.**

a. A sealed container shall be filled and sold only by the licensee or the licensee’s employees who are 18 years of age or older.

b. A sealed container shall be filled only upon receipt of an order by a consumer of legal age.

c. A sealed container shall be filled only with mixed drinks or cocktails composed in whole or in part with alcoholic liquor or native distilled spirits from an original container purchased from a class “E” liquor licensee.

d. The filling of a sealed container shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.10(3) Sealing requirements.** A sealed container shall bear one of the following tamper-evident sealing methods:

a. A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

b. A screw top cap or lid that breaks apart when the container is opened.

c. A vacuum or heat-sealed pouch containing the mixed drink or cocktail.

**4.10(4) Labeling requirements.** A sealed container shall bear a label affixed to the container in a conspicuous place legibly indicating the following information:

a. The business name of the licensee that sold the mixed drink or cocktail.

b. The words “CONTAINS ALCOHOL.”

**4.10(5) Sealed container not deemed an open container.** A sealed container shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed container is unopened, the seal has not been tampered with, and the contents of the sealed container have not been partially removed.

**4.10(6) Restrictions.**

a. A sealed container shall not be filled in advance of a sale.

b. A sealed container shall not meet the definition of “canned cocktail” as defined in Iowa Code section 123.3(11).

c. A licensee or a licensee’s employees shall not allow a consumer to fill a sealed container.

d. The filling and selling of a sealed container shall be limited to the hours in which alcoholic beverages may be legally sold.

e. A sealed container shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

**4.10(7) Record keeping requirements.**

a. A licensee shall maintain records, in printed or electronic format, of all sales of sealed containers. The records shall state the following:

(1) The business name of the licensee that sold the mixed drink or cocktail.

(2) The date and time of the sale.

(3) A description of the product sold.

b. A licensee shall keep the required records for a three-year period from the date the record was created.

c. Records shall be open to inspection pursuant to Iowa Code section 123.30(1), and may be subject to administrative subpoena issued by the administrator.

**4.10(8) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.43A, and 123.49.  
[ARC 5338C, IAB 12/16/20, effective 1/20/21]

**185—4.11(123) Filling and selling of wine and native wine in a container other than the original container.** Class “B,” class “C,” special class “C,” and class “E” retail alcohol licensees; special class “B” and special class “C” retail native wine licensees; and the licensee’s employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.30, 123.31A, and 123.31B and in this rule.

**4.11(1) Definitions.**

“Growler,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

“Native wine,” for the purposes of this rule, means the same as defined in Iowa Code section 123.3(36).

“Original container,” for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“Wine,” for the purposes of this rule, means the same as defined in Iowa Code section 123.3(53).

**4.11(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or the licensee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the sale.
- d. A growler shall be filled or refilled only with wine or native wine from the original container procured from a class “A” wine permittee.
- e. Special class “B” and special class “C” retail native wine licensees shall fill a growler with only native wine.
- f. A retailer may exchange a growler to be filled or refilled.
- g. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.11(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or the licensee’s employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.
- d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

**4.11(4) Restrictions.**

- a. A growler shall not be filled in advance of a sale.
- b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- d. A licensee or a licensee’s employees shall not allow a consumer to fill or refill a growler.
- e. The filling, refilling, and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.

*f.* A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

*g.* An original container shall only be opened on the premises of a class “B” and class “E” retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.11(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.31A, and 123.31B and section 123.31C as enacted by 2023 Iowa Acts, House File 677, section 5.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.12(123) Display of license, permit, or signs.** All licenses, permits or signs issued by the division shall be prominently displayed in full view on the licensed premises.

This rule is intended to implement Iowa Code sections 123.4 and 123.30.

**185—4.13(123) Outdoor service.** Any licensee having an outdoor, contiguous, discernible area on the same property on which their licensed establishment is located may serve the type of alcoholic beverage permitted by the license in the outdoor area. After a licensee satisfies the requirements of this rule, the licensee may serve and sell alcoholic beverages in both the licensee’s indoor licensed establishment and in the licensee’s outdoor area at the same time because an outdoor area is merely an extension of the licensee’s licensed premises and is not a transfer of their license. A licensee, prior to serving in the outdoor area, must file with the division:

1. A new diagram showing the discernible outdoor area.
2. Local authority approval of the outdoor area.
3. Insurance company acknowledgment that the outdoor area is covered by the dramshop insurance policy.

This rule is intended to implement Iowa Code sections 123.3(29), 123.4 and 123.38.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.14(123) Revocation or suspension by local authority.** When the local authority revokes or suspends a retail alcohol license, the local authority shall notify the division in written form stating the reasons for the revocation or suspension and in the case of a suspension, the length of time of the suspension.

This rule is intended to implement Iowa Code sections 123.4, 123.32, and 123.39.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.15(123) Suspension of retail alcohol license, wine permit, or beer permit.** At the time of the suspension of any retail alcohol license, wine permit, or beer permit by the division, there shall be placed, in a conspicuous place in the front door or window of the licensed establishment, a placard furnished by the division showing that the license or permit of that establishment has been suspended by the division and such placard shall also show the number of days and reason for the suspension. No licensee or permittee shall remove, alter, obscure or destroy said placard without the express written approval of the division.

This rule is intended to implement Iowa Code sections 123.4 and 123.39.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.16(123) Cancellation of beer permits—refunds.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.17(123) Prohibited storage of alcoholic beverages.** No licensee shall permit alcoholic beverages, purchased under authority of a retail alcohol license, to be kept or stored upon any premises other than those licensed. However, under special circumstances, the administrator may authorize the storage of alcoholic beverages on premises other than those covered by the license. The administrator

may allow class “D” retail alcohol licensees to store alcoholic liquor and wine in a bonded warehouse to be used for consumption in Iowa, under the authority of a class “D” retail alcohol license.

This rule is intended to implement Iowa Code sections 123.4 and 123.10(11).  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.18(123) Transfer of license or permit to another location.** A licensee or permittee cannot transfer to anyone else the right to use the retail alcohol license, wine permit, or beer permit of the licensee or permittee; the right of transfer is merely an opportunity for a licensee or permittee to use the licensee’s or permittee’s retail alcohol license, wine permit, or beer permit at a different location. A retail alcohol license, wine permit, or a beer permit may only be transferred within the boundaries of the local authority which approved the license or permit.

**4.18(1) Permanent transfers.** A person may apply for a permanent transfer. The application must be approved by the local authority and the division prior to the transfer. The insurance company holding the dramshop policy listing the new address must endorse the application prior to the transfer. When the above requirements are met, the division shall issue an amended license or permit showing the new permanent address.

**4.18(2) Temporary transfers.** If the transfer of a retail alcohol license or permit is for the purpose of accommodating a special event or circumstance temporary in nature, the minimum time of transfer is hereby set at 24 hours and transfer time shall not exceed seven days. A person may apply for a temporary transfer. The application must be approved by the local authority and the division. The insurance company holding the dramshop policy must endorse the application prior to the transfer.

This rule is intended to implement Iowa Code sections 123.4 and 123.38.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.19(123) Execution and levy on alcoholic liquor, wine, and beer.** Judgments or orders requiring the payment of money or the delivery of the possession of property may be enforced against retail alcohol licensees, beer permittees, and wine permittees by execution pursuant to the provisions of Iowa Code chapter 626.

**4.19(1)** A secured party as defined in Iowa Code section 554.9102(1) “*by*” may take possession of and dispose of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer in which the secured party has a security interest in such collateral pursuant to the provisions of Iowa Code chapter 554. The secured party may operate under the retail alcohol license or permit of its debtor as defined in Iowa Code section 554.9102(1) “*ad*” for the purpose of disposing of the alcoholic liquor, wine, and beer. However, if the debtor is a class “E” retail alcohol licensee, the secured party may not purchase alcoholic liquor from the division to continue to operate its debtor’s business. A secured party operating under the retail alcohol license or permit of its debtor shall dispose of the alcoholic liquor, wine, and beer by sale only to persons authorized under Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the debtor. When a secured party takes possession of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer, the secured party shall notify the division in writing of such action. A secured party shall further inform the division of the manner in which it intends to dispose of the alcoholic liquor, wine, and beer and shall state the reasonable length of time in which it intends to operate under the retail alcohol license or permit of its debtor. The secured party shall notify the division in writing when the disposition of its collateral has been completed, and the secured party shall cease operating under the retail alcohol license or permit of its debtor.

**4.19(2)** A sheriff or other officer acting pursuant to Iowa Code chapter 626 may take possession of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer and may dispose of such inventory according to the provisions of Iowa Code chapter 626; however, the sheriff or other officer must sell the alcoholic liquor, wine and beer only to those persons authorized by Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the retail alcohol licensee or permittee whose inventory is subject to the execution and levy. The sheriff or other officer shall notify the division in writing at the time the

sheriff or officer takes possession of a retail alcohol licensee's or permittee's alcoholic liquor, wine, and beer and shall further notify the division of the time and place of the sale of such property.

This rule is intended to implement Iowa Code sections 123.4, 123.10, and 123.38.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.20(123) Class “E” retail alcohol licensee methods of payment accepted.** The division may accept personal or business checks from a class “E” retail alcohol licensee made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn. Bank drafts, signed by the licensee, will be accepted.

**4.20(1)** A retail alcohol licensed establishment which tenders the division one insufficient funds bank draft for the purchase of alcoholic liquor will lose its bank draft privilege for 90 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period. A retail alcohol licensed establishment which tenders the division more than one insufficient funds bank draft for the purchase of alcoholic liquor will lose its bank draft privilege for 180 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period.

During the period that a licensee may not tender bank drafts to the division in payment for alcoholic liquor, the division may accept from the licensee a money order payable to the division for the amount of the purchase, a bank cashier's check signed by a bank official and made payable to the division for the amount of the purchase, or the licensee's personal or business check made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn.

**4.20(2)** The division may collect from the licensee a \$10 fee for each dishonored bank draft tendered to the division by a licensee for the purchase of alcoholic beverages.

**4.20(3)** The division may require, at the discretion of the administrator, that a licensee submit a letter of credit in a reasonable amount to be determined by the administrator for future purchases of alcoholic liquor from the division, when a licensee tenders to the division a bank draft which is subsequently dishonored by the bank if the licensee fails to satisfy the obligation within ten days after service of notice of nonpayment and penalty.

This rule is intended to implement Iowa Code sections 123.4 and 123.24.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.21(123) Where retailers must purchase wine.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.22(123) Liquor on licensed premises.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.23(123) Liquor on unlicensed places.** Liquor may be kept and consumed but not sold on unlicensed places under the following conditions:

**4.23(1)** Liquor may be kept and consumed in a private home at any time.

**4.23(2)** Liquor may be kept and consumed, by the guests or residents, in the residential or sleeping quarters of a hotel or motel at any time. This is considered as an extension of the private home.

**4.23(3)** Liquor may be consumed at a private social gathering in a private place at any time.

**4.23(4)** A private place is a location which meets all of the following criteria:

*a.* One to which the general public does not have access at the time the liquor is kept, dispensed or consumed; one at which the attendees are limited to the bona fide social hosts and invited guests.

*b.* One which is not of a commercial nature at the time the liquor is consumed or dispensed at the location.

*c.* One where goods or services are neither sold nor purchased at the time the liquor is consumed or dispensed at the location.

*d.* One where the use of the location was obtained without charges or rent or any other thing of value was exchanged for its use.

- e.* One which is not a licensed premises.
- f.* One where no admission fees or other kinds of entrance fees, fare, ticket, donation or charges are made or are required of the invited guests to enter the location.

This rule is intended to implement Iowa Code section 123.95.

**185—4.24(123) Alcoholic liquor and wine on beer permit premises.** Rescinded **ARC 3928C**, IAB 8/1/18, effective 9/5/18.

**185—4.25(123) Age requirements.** Persons 21 years of age or older may hold a retail alcohol license, wine permit, or beer permit. Persons 16 years of age and older may sell alcoholic beverages in off-premises establishments.

This rule is intended to implement Iowa Code sections 123.30 and 123.49.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.26(123) Timely filed status.**

**4.26(1)** In addition to the requirements which may be imposed by a local authority upon the holder of a retail alcohol license to obtain timely filed status of a renewal application, the division may grant timely filed status if the applicant complies with the following conditions:

- a.* The applicant submits a completed application with the local authority or the division as required by applicable law.
- b.* A current dramshop liability certificate has been endorsed by the insurance company if proof of dramshop liability is required as a condition precedent to the issuance of the license.
- c.* The applicant pays the appropriate license fee in full to the local authority or the division as required by applicable law.
- d.* A bond has been certified by the carrier if a bond is required as a condition precedent to the issuance of the license under applicable law.

**4.26(2)** Timely filed status allows the holder of the license to continue to operate under a license after its expiration and until the local authority and the division have finally determined whether the license should be issued. If the application for the license is denied, timely filed status continues until the last day for seeking judicial review of the division's action.

**4.26(3)** An applicant for a new retail alcohol license may not sell alcoholic liquor, wine or beer in the proposed establishment until a license has been granted by the division.

This rule is intended to implement Iowa Code sections 123.32, 123.35 and 17A.18.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.27(123) Effect of suspension.** Subject to the right to convey a suspended establishment under Iowa Code section 123.39, no beer, wine, or liquor can be sold or consumed in an establishment during a suspension period. An establishment may be open during a suspension period to conduct lawful business other than the sale of liquor, wine, and beer as long as no liquor, wine, or beer is sold or consumed during the suspension period.

This rule is intended to implement Iowa Code section 123.39.

**185—4.28(123) Use of establishment during hours alcoholic beverages cannot be consumed.** No one, including a retail alcohol licensee and the licensee's employees, can consume alcoholic beverages in their licensed establishment during hours which alcoholic beverages cannot be sold. An establishment covered by a retail alcohol license can be used as a restaurant or any other lawful purpose during hours which alcoholic beverages cannot be sold as long as alcoholic beverages are not consumed during these hours.

This rule is intended to implement Iowa Code section 123.49.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.29** Reserved.



**185—4.30(123) Persons producing fuel alcohol.** Persons producing fuel alcohol for their own use or to be sold commercially do not have to obtain a license or permit from the division.

This rule is intended to implement Iowa Code sections 123.4 and 123.41.

**185—4.31(123) Storage of beer.** Rescinded **ARC 7073C**, IAB 9/20/23, effective 10/25/23.

**185—4.32(123) Delivery of alcoholic liquor.** Individuals who do not work for the division may operate a delivery service in which they will charge licensees a fee for picking up their alcoholic liquor orders at the division's liquor stores and delivering it to their establishments.

This rule is intended to implement Iowa Code sections 123.4 and 123.21(10).

**185—4.33(123) Delivery of beer and wine.** Rescinded **ARC 7073C**, IAB 9/20/23, effective 10/25/23.

**185—4.34(123) Determination of population.** Decennial Censuses and Special Censuses done by the U.S. Census Bureau are recognized as being the official population of a town for the purpose of deciding the price of licenses in that town, but estimates done by the U.S. Census Bureau cannot be viewed as being the official population when deciding the price of licenses.

This rule is intended to implement Iowa Code section 123.10(11).  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.35(123) Minors in licensed establishments.** Because Iowa law does not prohibit minors from being in licensed establishments, a minor can be in a licensed establishment if local authority does not have a local ordinance prohibiting minors from being in licensed establishments in its jurisdiction.

This rule is intended to implement Iowa Code section 123.21(5).

**185—4.36(123) Sale of alcoholic beverages stock when licensee sells business.** When a retail alcohol licensee goes out of business, the licensee may sell the licensee's stock of alcoholic beverages to the person who is going to operate a licensed establishment in the same location.

This rule is intended to implement Iowa Code section 123.10.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.37(123) Business as usual on election days.** Rescinded **ARC 7073C**, IAB 9/20/23, effective 10/25/23.

**185—4.38(123) Sunday sale of wine.** Rescinded **ARC 7073C**, IAB 9/20/23, effective 10/25/23.

**185—4.39(123) Intoxication notice.** Reserved.

**185—4.40(123) Warehousing of beer and wine.** A person holding a class "A" wine permit or a class "A" beer permit shall warehouse their wine or beer inventory within the state of Iowa. A warehouse of a person holding a class "A" wine permit or a class "A" beer permit shall be considered a licensed premises.

This rule is intended to implement Iowa Code sections 123.127 and 123.175.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.41(123) Vending machines to dispense alcoholic beverages prohibited.** A retail alcohol licensee shall not install or permit the installation of vending machines on the licensed premises for the purpose of selling, dispensing or serving alcoholic beverages. A vending machine is defined as a slug-, coin-, currency- or credit card-operated mechanical device used for dispensing merchandise, including single cans of beer or other alcoholic beverages, and includes a mechanical device operated by remote control and used for dispensing single cans of beer or other alcoholic beverages. A vending machine is not a unit installed in individual hotel or motel rooms used for the storage of alcoholic beverages and intended for the personal use of hotel or motel guests within the privacy of the guests' rooms.

This rule is intended to implement Iowa Code section 123.49.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

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<sup>1</sup> Effective date of 4.32 delayed seventy days by the Administrative Rules Review Committee on 8/2/83.

<sup>2</sup> Two ARCs. See Alcoholic Beverages Division in IAB.

CHAPTER 5  
LICENSE AND PERMIT DIVISION  
[Ch 5, IAC 7/1/75 renumbered Ch 6, IAC 3/7/79]  
[Prior to 10/8/86, Beer and Liquor Control Department [150]]

**185—5.1(123) Manufacture and sale of native wine.** Manufacturers of native wine as defined in Iowa Code section 123.3(36) may sell, keep or offer for sale and deliver their native wine subject to the following regulations and restrictions.

**5.1(1) Class “A” native wine permit.** A manufacturer of native wine must display the original or a copy of its class “A” native wine permit in each of its native wineries and in each of its retail establishments. A manufacturer of native wine must register its retail establishment on forms or systems provided by the division.

**5.1(2) Monthly combined wine production and wine gallonage tax report.** A monthly report is required showing the amount of wine on hand at the beginning of the month, the amount produced, the amount sold, the amount of wine gallonage tax due, and any other information requested. Report forms shall be furnished by the division. A manufacturer of native wine shall submit a report along with any wine gallonage tax payment in the division’s licensing system by the tenth of each month for the preceding month’s business. Reports and wine gallonage tax payments submitted by the tenth of each month for the preceding month shall be considered timely. This report must be submitted for each month even if no wine sales were made during the month.

This rule is intended to implement Iowa Code sections 123.4, 123.49, 123.176, and 123.183.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.2(123) Production of a native distillery.**

**5.2(1) Native distillery.** A native distillery is a business as defined in Iowa Code section 123.3(35).

**5.2(2) Definitions.**

“Native distilled spirits” means an alcoholic beverage as defined in Iowa Code section 123.3(34).

“Operating still” means a still that is registered with the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 19.75(b) and is actively used to manufacture spirits.

“Proof gallon” means a United States gallon of proof spirits, or the alcoholic equivalent thereof, as defined by the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 30.11.

This rule is intended to implement Iowa Code sections 123.3(29), 123.30(3) “c”(3), 123.43 and 123.43A.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.3(123) Licensed manufacturers and wholesalers.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—5.4(123) Investigation before issuing license or permit.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—5.5** Reserved.

**185—5.6(123) Living quarters permit.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—5.7(123) Change of ownership of a licensed premises, new license or permit required.**

**5.7(1)** A new license or permit and a new bond and a new dramshop policy must be obtained whenever one of the following occurs:

- a. When a business is sold or leased to another person.
- b. When a licensee or permittee changes to another form of business, such as: sole proprietorship to a corporation; a corporation to a sole proprietorship; a sole proprietorship to a partnership; a partnership to a sole proprietorship; a partnership to a corporation; or a corporation to a partnership.
- c. When a partner leaves a partnership or when a new partner is added to a partnership.
- d. When a corporation name is changed due to a merger or is voluntarily changed by its owners.

- e. Each time an entity obtains a seasonal license or permit.
- f. When a receiver takes over the operation of an establishment.

**5.7(2)** A new license or permit is not required:

- a. When only the trade name of the business is changed.
- b. When the stock of a corporation holding a license or permit is sold. A letter to the division listing the new owner or owners and the amount of stock held by each is required.
- c. When a name of a licensee or permittee is changed by marriage, divorce, or other legal proceeding. A letter requesting the name change is required.
- d. When a license or permit is transferred to another location within the jurisdiction of the local authority as allowed by rule 185—4.18(123).

This rule is intended to implement Iowa Code sections 123.4, 123.10, 123.31 and 123.49.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.8(123) Dramshop liability insurance requirements.** For the purpose of providing proof of financial responsibility, as required under the provisions of Iowa Code section 123.92, a liability insurance policy shall meet the following requirements.

**5.8(1) *Current certificate required.*** The dramshop liability certificate of insurance shall be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa or issued under the authority and requirements of Iowa Code sections 515.120 and 515.122. The dramshop policy shall take effect the day the license takes effect and shall continue until the expiration date of the license. A new dramshop liability certificate of insurance shall be provided each time the division issues a new license. The dramshop liability certificate of insurance shall contain the following: the name of the insurance provider; the policy number; the name and address of the insured; the license number of the insured, if applicable; and the policy effective dates. Upon request, an insurance company or an insured shall provide to the division a duplicate original of the policy and all pertinent endorsements.

**5.8(2) *Minimum coverage required.*** The dramshop liability insurance policy shall provide the following minimum liability coverage, exclusive in interests and cost of action, per occurrence:

- a. Fifty thousand dollars for bodily injury to or death of one person in each claim or occurrence.
- b. One hundred thousand dollars for bodily injury to or death of two or more persons in each occurrence.
- c. Twenty-five thousand dollars for loss of means of support of any one person in each occurrence.
- d. Fifty thousand dollars for loss of means of support of two or more persons in each occurrence.

**5.8(3) *Permitted policies.*** All dramshop policies issued under this rule shall be occurrence-based policies, not claims-made-based policies.

a. *Claims-made-based policies.* Claims-made-based policies provide liability coverage only if a written claim is made during the policy period, or any applicable extended reporting period.

b. *Occurrence-based policies.* Occurrence-based policies provide liability coverage only for injuries or damages that occur during the policy period regardless of the number of written claims made.

**5.8(4) *Cancellation.*** An insurance company or an insured may cancel a liability policy by giving a minimum of 30 days' prior written notice to the division of the party's intent to cancel the liability policy. The 30-day period shall begin on the date that the division receives the notice of cancellation. The party seeking to cancel a liability policy shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, or other method deemed acceptable by the division, and shall mail a copy of the notice of cancellation to the licensee at that party's post office address. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the liability policy is being canceled, and the retail alcohol license number of the licensee to be affected by such cancellation.

**5.8(5)** No change.

**5.8(6) *Proof of financial responsibility.*** A licensee shall be deemed to have furnished proof of financial responsibility as contemplated under the provisions of Iowa Code sections 123.92, 123.93, and

123.94 when the licensee has filed with the division at its offices in Ankeny, Iowa, a properly executed form as described by subrule 5.8(1), or by other method deemed acceptable by the division.

**5.8(7) Signature required.** Copies of the form described above shall not be deemed properly executed unless the authorized company representative executing the same shall first have filed with the division a sample of the representative's signature. Electronic and facsimile signatures will be acceptable.

**5.8(8) Single insurance policies for multiple establishments.** Any licensee that holds multiple licenses throughout the state may purchase a single dramshop insurance policy for all locations provided that:

*a.* The single dramshop insurance policy provides at least the minimum level of coverage required under this rule for each and every location covered by the policy.

*b.* All other provisions of this rule are met by the single dramshop insurance policy.

**5.8(9) Assault and battery policy requirement.** Any dramshop insurance policy issued under this rule shall not contain an exclusionary clause for assault and battery or intentional force with regard to:

*a.* Employees, agents or any person acting as an agent of the establishment.

*b.* All patrons or visitors to the establishment.

This rule is intended to implement Iowa Code sections 123.92, 123.93 and 123.94.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.9(123) Surety bond requirements.** Each surety bond shall meet the following requirements.

**5.9(1) Certificate of authority.** The surety bond shall be issued by a company holding a current certificate of authority from the commissioner of insurance authorizing the company to issue bonds in Iowa.

**5.9(2) Forfeiture of bond.** The surety bond shall contain a provision for the principal and surety to consent to the forfeiture of the principal sum of the bond in the event of revocation of the license or permit by the violation of any Iowa Code provision which requires forfeiture of the bond.

**5.9(3) Cancellation.** A surety company or a principal may cancel a bond by giving a minimum of 30 days' written notice to the division of the party's intent to cancel the bond. The 30-day period shall commence on the date that the division receives the notice of cancellation. The party seeking to cancel a bond shall submit written notice of such cancellation to the division in Ankeny, Iowa, and further shall submit a copy of the notice of cancellation to the other party. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was submitted, the date on which the notice of cancellation was submitted, the date the bond is being canceled, and the license or permit number of the licensee or permittee to be affected by such cancellation.

**5.9(4) Proof of bond.** A licensee or permittee shall be deemed to have furnished a surety bond when the licensee or permittee has:

*a.* Filed with the division a form prescribed by the division containing the following: the name of the bond provider; the city and state where the bond provider is located; the bond number, the names of the principal, and the city and state where the principal is located; the amount of the bond; the type of license or permit guaranteed by the bond; the effective date of the bond; signatures of the principal and the bond provider; and any other information the administrator of the division may require, or

*b.* Met this requirement by any other method deemed acceptable by the administrator of the division or a designee.

**5.9(5) to 5.9(7) Reserved.**

This rule is intended to implement Iowa Code sections 123.30, 123.50, 123.127, and 123.175.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.10 to 185—5.19 Reserved.**

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◊ Two or more ARCs

<sup>1</sup> Effective date of 5.1(2), 5.1(7) and 5.7(1) delayed 70 days by the Administrative Rules Review Committee on 6/11/85.

<sup>2</sup> See Alcoholic Beverages Division in IAB.

CHAPTER 8  
TRANSPORTATION AND WAREHOUSE

[Ch 8, IAC 7/1/75 rescinded 3/7/79; see 5.8, 5.9]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

**185—8.1(123) Definitions.**

“*Administrator*” means the administrator of the alcoholic beverages division of the department of commerce.

“*Category*” means the classification of an alcoholic liquor product, such as rum, vodka, or whiskey.

“*Commission*” means the alcoholic beverages commission established in Iowa Code chapter 123.

“*Delist*” means the removal of products from the division’s product inventory.

“*Division*” means the alcoholic beverages division of the department of commerce.

“*Product*” means “alcoholic liquor” or “native distilled spirits” as defined in Iowa Code chapter 123.

“*Supplier*” means a manufacturer, distiller, or importer of alcoholic liquors or native distilled spirits shipping, selling, or having such alcoholic beverages brought into this state for resale by the division.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.2(123) Listing classifications.** Each product available for sale by the division shall be assigned to one of the following listing classifications. Suppliers may indicate their preferred listing classification; however, final determination shall be made by the administrator or the administrator’s designee.

**8.2(1) *Permanent.*** Products with a permanent listing shall be available for sale by the division on an ongoing basis, unless otherwise delisted or temporarily out of stock.

**8.2(2) *Temporary.*** Temporary listings shall have a duration determined by the administrator or the administrator’s designee, and the duration may be extended at the discretion of the administrator or the administrator’s designee.

**8.2(3) *Size extension.*** A supplier shall submit a listing request for each additional size of a product that is currently listed for sale. All listed sizes of the product should meet sales criteria established by the administrator, or the administrator’s designee, in order for a size extension listing request to be approved as a permanent listing.

**8.2(4) *Special order.*** Products that are not currently listed for sale by the division may be purchased through a special order placed with the supplier of the product.

*a.* A request for a special order will be placed with the division by a class “E” retail alcohol licensee. Special order requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator’s designee. The administrator, or the administrator’s designee, may reject a special order request if it is determined that the requested product is in violation of the requirements set out in subparagraphs 8.3(3)“*a*”(1) and 8.3(3)“*a*”(2).

*b.* If the division accepts a special order request, the request shall be forwarded on to the supplier of the product. The supplier may approve or deny the special order request.

*c.* All special order products shall be sold and distributed by the division to class “E” retail alcohol licensees by the case only.

*d.* Special order products are not eligible for return to the division by a class “E” retail alcohol licensee without approval from the administrator or the administrator’s designee.

**8.2(5) *Special order on hand.*** Products that are frequently sold as special orders but do not qualify for permanent listing may be listed as special order on hand.

*a.* To be eligible for classification as a special order on-hand listing, a product must have been previously sold as a special order and meet sales criteria established by the administrator or the administrator’s designee.

*b.* Products that have been delisted shall not be eligible to be moved from permanent listing to special order on-hand listing.

**8.2(6) *Highly allocated.*** Highly allocated products are products of a limited supply as determined by the supplier.

*a.* Highly allocated products may be sold via a lottery system as deemed necessary by the administrator or the administrator’s designee.

b. Highly allocated products shall not be available for sale as special orders.

**8.2(7) Quantity limitations.** Quantities of listed products available for purchase by class “E” retail alcohol licensees may be limited at the administrator’s, or the administrator’s designee’s, discretion.  
[ARC 5910C, IAB 9/22/21, effective 10/27/21; ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—8.3(123) Listing requests.** The supplier of a product to be sold by the division shall submit a listing request for consideration by the administrator or the administrator’s designee.

**8.3(1) Submitting a listing request.** Listing requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator’s designee.

**8.3(2) Listing request requirements.**

a. A listing request shall contain the following information:

(1) A control state code number for the product issued by the National Alcohol Beverage Control Association.

(2) The supplier’s f.o.b. cost per case. The case price shall be evenly divisible by the number of bottles in the case. The supplier shall determine the number of bottles that constitute a case for the product.

(3) The product’s case quantity size and standard of fill.

(4) An image of the product.

(5) A brief description of the product.

(6) The weights and dimensions of the product container, case, and pallet.

(7) The product’s 14-digit shipping container code.

(8) The product’s universal product code.

(9) Any other information required by the administrator or the administrator’s designee.

b. The administrator, or the administrator’s designee, may require a supplier to conduct a listing presentation for new products that have not been previously listed.

**8.3(3) Decisions.**

a. The criteria used to determine whether a listing request shall be approved or denied shall include, but not be limited to, the following:

(1) Whether the product violates the code of responsible practices established by the Distilled Spirits Council of the United States.

(2) The reasonable potential of the product to unduly jeopardize the welfare, health, peace, morals, or safety of the people of the state.

b. The administrator, or the administrator’s designee, shall approve or deny a listing request not more than 20 business days from the date the listing request was submitted. Suppliers shall be notified of the decision in writing delivered electronically or in a manner prescribed by the administrator or the administrator’s designee.

**8.3(4) Appeals.**

a. *Appeal to administrator.*

(1) A supplier may appeal the denial of a listing request by the administrator’s designee to the administrator by filing a notice of appeal within 30 days of the date of denial.

(2) A notice of appeal shall be in writing and shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the administrator.

(4) The administrator shall affirm, reverse, or modify the denial of the listing request and shall notify the supplier of the decision in writing.

b. *Appeal to commission.*

(1) If the administrator denies a listing request or affirms the denial of a listing request by the administrator’s designee, the supplier may appeal the administrator’s decision by filing a notice of appeal with the commission within 30 days of the date of the administrator’s decision.

(2) A notice of appeal shall be in writing and shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the commission.



(4) The commission shall have discretion as to whether to hear the appeal. If the commission chooses to hear the appeal, it shall be heard at the next scheduled commission meeting or a special meeting called for by the commission chairperson, the administrator, or at least three members of the commission.

(5) If the commission reverses the decision of the administrator, the listing request shall be approved.

(6) If the commission affirms the administrator's decision or chooses not to hear the appeal, the listing request shall be denied.

(7) The commission's decision shall constitute final agency action for the purposes of Iowa Code chapter 17A.

**8.3(5) *Resubmission of a listing request.*** If a listing request for a product is denied, a new listing request for the product may be submitted by the supplier not less than three months after the denial date of the original listing request.

**8.3(6) *Moratorium.*** The administrator, or the administrator's designee, may implement a moratorium on new permanent listing requests. The duration of the moratorium period shall be determined by the administrator or the administrator's designee. The administrator, or the administrator's designee, may allow a supplier to trade out a permanently listed product for a new product during a moratorium period.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.4(123) Shipment of product to the division.** Shipments of product intended for sale by the division shall be made in accordance with this rule.

**8.4(1) *Product shipments into the state.*** Product shipments shall only be made into the state of Iowa by suppliers.

**8.4(2) *Product shipment locations.*** Product shipments shall only be made to a state warehouse or to receiving points designated by the administrator.

**8.4(3) *Pallet requirements.***

*a.* Products shipped to the division shall be on securely stretch-wrapped pallets that are in good repair. The administrator, or the administrator's designee, may establish additional requirements as deemed necessary.

*b.* Products shipped to the division on slip sheets shall not be accepted by the division and shall be returned to the supplier.

**8.4(4) *Case labeling requirements.***

*a.* Each case of product shipped to the division shall include a case code label placed on an end panel of the case.

*b.* The case code label shall contain the following information:

(1) The control state code number issued by the National Alcohol Beverage Control Association for the product.

(2) The product's universal product code and corresponding barcode.

(3) The 14-digit shipping container code and corresponding barcode. The shipping container code and barcode shall meet the minimum requirements established by the American National Standards Institute and the International Organization for Standardization.

(4) Any other information required by the administrator or the administrator's designee.

**8.4(5) *Bottle deposit requirements.***

*a.* All products intended for resale by the division shall meet the requirements of Iowa Code section 455C.5 and rule 567—107.3(455C). Products that do not meet the requirements shall not be made available for sale until the requirements are met.

*b.* Suppliers may purchase bottle deposit refund stickers from the division. The cost of the stickers to suppliers shall not exceed the division's cost of producing and distributing the stickers.

**8.4(6) *Special handling charges.*** Product shipments that do not meet the requirements of subrule 8.4(3), 8.4(4), or 8.4(5) shall result in the assessment of special handling charges against the supplier in an amount not to exceed the division's actual cost to bring the shipments into compliance. The

division's actual cost shall be determined using the negotiated hourly rate of the third party the division has contracted with for warehousing services.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.5(123) Inventory levels.** The administrator, or the administrator's designee, shall establish maximum and minimum inventory levels for each listed product. Maximum and minimum inventory levels may be adjusted at the discretion of the administrator or the administrator's designee.

**8.5(1) Purchase orders.** Suppliers shall submit purchase orders to the division electronically, or in a manner prescribed by the administrator or the administrator's designee, as needed to maintain appropriate inventory levels.

**8.5(2) Maximum inventory level exception.** A supplier may request from the division an exception to the established maximum inventory level for a product. Requests for a maximum inventory level exception shall be submitted to the division electronically or in a manner prescribed by the administrator or the administrator's designee. The administrator, or the administrator's designee, shall approve or deny the request, and the supplier shall be notified of the decision in writing delivered either electronically or in a manner prescribed by the administrator or the administrator's designee.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.6(123) Pricing.**

**8.6(1) Permanent price changes.** Suppliers may make permanent price changes to the case cost of products in any listing classification.

*a.* The frequency at which permanent price changes may be made shall be determined by the administrator or the administrator's designee.

*b.* Permanent price changes shall be submitted electronically, or in a manner prescribed by the administrator or the administrator's designee, at least 20 business days prior to the effective date.

**8.6(2) Temporary price reductions.** Suppliers may make temporary price reductions to the case cost of products with a permanent or temporary listing classification.

*a.* Products with a listing classification of special order, special order on hand, or highly allocated shall not be eligible for temporary price reductions.

*b.* Temporary price reductions shall become effective as determined by the administrator or the administrator's designee.

*c.* Temporary price reductions shall be submitted electronically, or in a manner prescribed by the administrator or the administrator's designee, at least 20 business days prior to the effective date.

**8.6(3) Price lists.** The division shall publish a price list electronically on a monthly basis showing the price to be paid by class "E" retail alcohol licensees for each brand, variety, and category of product available for sale by the division. The price list shall be published on the division's website at [shop.iowaabd.com](http://shop.iowaabd.com) and may be distributed to class "E" retail alcohol licensees as deemed necessary by the administrator or the administrator's designee.

[ARC 5910C, IAB 9/22/21, effective 10/27/21; ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—8.7(123) Delisting.** Listed products that do not meet sales guidelines established by the administrator, or the administrator's designee, may be delisted. The frequency of delisting shall be determined by the administrator or the administrator's designee.

**8.7(1) Notification.** Suppliers of delisted products shall be notified of the decision in writing delivered electronically or in a manner prescribed by the administrator or the administrator's designee.

**8.7(2) Appeals.**

*a. Appeal to administrator.*

(1) A supplier may appeal the delisting of a product by the administrator's designee to the administrator by filing a notice of appeal within 30 days of the date of delisting notification.

(2) A notice of appeal shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the administrator.

(4) The administrator shall affirm, reverse, or modify the delisting and shall notify the supplier of the decision in writing.

*b. Appeal to commission.*

(1) If the administrator delists a product, or if the administrator affirms a delisting by the administrator's designee, the supplier may appeal the administrator's decision by filing a notice of appeal with the commission within 30 days of the date of the administrator's decision.

(2) A notice of appeal shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the commission.

(4) The commission shall have discretion as to whether to hear the appeal. If the commission chooses to hear the appeal, it shall be heard at the next scheduled commission meeting or a special meeting called for by the commission chairperson, the administrator, or at least three members of the commission.

(5) If the commission reverses the decision of the administrator, the product shall remain listed under terms established by the commission.

(6) If the commission affirms the administrator's decision, or chooses not to hear the appeal, the product shall be delisted.

(7) The commission's decision shall constitute final agency action for the purposes of Iowa Code chapter 17A.

**8.7(3) Removal of delisted products.** Delisted products shall be removed from the division's warehouse by the supplier or by the supplier's agent or employee within a time frame established by the administrator or the administrator's designee. A supplier may authorize the division to destroy a delisted product in lieu of removal of the product by the supplier from the division's warehouse. New listing requests submitted by a supplier shall not be considered by the division until all of the supplier's delisted product has been removed from the division's warehouse.

**8.7(4) Resubmission of a delisted product for listing.** If a product in a permanent listing classification is delisted, a new listing request for the product may be submitted not less than six months after the date the product was removed from the warehouse.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.8(123) Barrel programs.** A supplier may offer a barrel program, allowing a class "E" retail alcohol licensee to purchase the bottled contents of a barrel-aged product along with the aging barrel.

**8.8(1)** Barrel programs shall be uniformly offered to all class "E" retail alcohol licensees.

**8.8(2)** Suppliers may sample barrel-aged products pursuant to rule 185—16.8(123).

**8.8(3)** Barrel program products shall be classified as special orders.

**8.8(4)** Products purchased as part of a barrel program shall be sold and delivered to the individual class "E" retail alcohol licensee that placed the special order. Barrel program special orders and products shall not be split between two or more class "E" retail alcohol licensees.

**8.8(5)** Aging barrels sold in conjunction with a barrel program shall bear conspicuous and substantial advertising matter.

**8.8(6)** Bottles from a barrel program may bear customized labels.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

These rules are intended to implement Iowa Code sections 123.10(2), 123.10(3), 123.10(6), and 123.10(10).

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[Editorially transferred from [150] to [185], IAC Supp. 10/8/86; see IAB 7/30/86]

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[Filed ARC 7073C (Notice ARC 7049C, IAB 7/26/23), IAB 9/20/23, effective 10/25/23]

CHAPTER 17  
CLASS "E" LIQUOR CONTROL LICENSES  
Rescinded **ARC 7073C**, IAB 9/20/23, effective 10/25/23



CHAPTER 18  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The alcoholic beverages division hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to public records and fair information practices, which are published at [www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf) on the general assembly's website.

**185—18.1(123,22) Definitions.** As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “alcoholic beverages division”.

**185—18.3(123,22) Requests for access to records.**

**18.3(1) Location of record.** In lieu of the words “(insert agency head)” insert “Chief, Licensing Bureau, Alcoholic Beverages Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021”; and in lieu of the words “(insert agency name and address)”, insert “alcoholic beverages division at the above-stated address”.

**18.3(2) Office hours.** In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays”.

**18.3(7) Fees.**

*c. Supervisory fee.* In lieu of the words “(specify time period)”, insert “thirty minutes”.

**185—18.9(123,22) Disclosures without the consent of the subject.**

**18.9(1)** Open records are routinely disclosed without the consent of the subject.

**18.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 185—18.10(123,22) or in any notice for a particular record system.

*b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

*c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

*d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

*e.* To the legislative services agency under Iowa Code section 2A.3.

*f.* Disclosures in the course of employee disciplinary proceedings.

*g.* In response to a court order or subpoena.

**185—18.10(123,22) Routine use.**

**18.10(1)** Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**18.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

*c.* Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

*d.* Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

*e.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

*f.* Any disclosure specifically authorized by the statute under which the record was collected or maintained.

*g.* The following records are routinely disseminated to members of the public:

(1) Information collected and maintained concerning ownership and location of establishments licensed under Iowa Code chapter 123.

(2) Information collected and maintained on licensees' dramshop liability insurance.

(3) Information collected and maintained concerning the status of contested case matters in which disciplinary action has been taken against a licensee or permittee.

(4) Information collected and maintained identifying the names of distillers, vintners, and brewers, their employees, agents, representatives, and designated wholesalers.

(5) Information identifying the name and address of a licensee's, permittee's, wholesaler's, or certificate of compliance holder's registered agent for service of process.

(6) Information provided to the agency which identifies the names, addresses and telephone numbers of board members of organizations of interest to licensees and permittees.

(7) Information identifying the names and addresses of nonliquor related vendors (i.e., landlords) and the names and addresses of the agency's sublessees.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

### **185—18.11(123,22) Consensual disclosure of confidential records.**

**18.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 185—18.7(123,22).

**18.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

### **185—18.12(123,22) Release to subject.**

**18.12(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 185—18.6(123,22). However, the agency need not release the following records to the subject:

*a.* The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

*b.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

*c.* Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))

*d.* As otherwise authorized by law.



**18.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**185—18.13(123,22) Availability of records.**

**18.13(1) General.** Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**18.13(2) Confidential records.** The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

- a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)
- b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)
- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) “d.”
- f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

**18.13(3) Authority to release confidential records.** The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law.

Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 185—18.4(123,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 18.4(3).

**185—18.14(123,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 185—18.1(123,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

**18.14(1) Licensing records.** Licensing records include, but are not limited to, information identifying ownership, location, form of business entity and statements concerning eligibility of applicants to hold retail alcohol licenses and permits. These records are collected and maintained pursuant to Iowa Code sections 123.23, 123.29, 123.30, 123.33, 123.42, 123.49, 123.124, 123.125, 123.127, 123.135, 123.173, 123.175, 123.176, and 123.180. Licensing records are stored on microfiche, in an automated data processing system, and in extant form. The information stored in the automated data system does not match, collate or permit comparison with other data processing systems. The information contained in licensing records is public information.

**18.14(2) Contested case matters.** These records are collected and maintained pursuant to Iowa Code sections 17A.12, 17A.3(1) “d,” 17A.3(2), 123.24, 123.39, 123.49, and 123.50. Contested case matters are stored on microfiche, and in extant form. The information stored does not match, collate or permit comparison with other data processing systems. The information contained in contested case matters is public information. Contested case matters include all pleadings, motions, briefs, orders, transcripts, exhibits, and physical evidence utilized in the resolution of the matter.

**18.14(3) Waivers of rule and declaratory rulings.** Waivers of rule and declaratory rulings may contain information which identifies individuals. These records are maintained pursuant to Iowa Code section 17A.9 and rule 185—1.3(123,17A). Waivers of rule and declaratory rulings are stored on microfiche and in extant form. The method of storage does not match, collate or permit comparison with other data processing systems. The information contained in waivers of rule and declaratory rulings is public information.

**18.14(4) Purchase orders, invoices, account numbers and personal identification numbers.** Purchase orders and invoices include, but are not limited to, records of purchases of alcoholic liquor made by class “E” retail alcohol licensees from the agency and related shipping and transmittal documents. Account numbers and personal identification numbers identify individual class “E” retail alcohol licensees and provide the agency with a method of filling orders, shipping and obtaining payment for liquor from telephone orders by class “E” retail alcohol licensees. These records are collected and maintained pursuant to Iowa Code sections 123.16, 123.24 and 123.30. Purchase orders are stored in extant form and in automated data processing systems. The automated data processing systems used to store these records do not match, collate, or permit comparison with other data processing systems except to the extent that such records may be used by warehouse personnel for inventory control, movement of alcoholic liquor within the warehouse, and filling and shipping orders to class “E” retail alcohol licensees. The information contained in these records which identifies purchases made by individual class “E” retail alcohol licensees is confidential pursuant to Iowa Code section 22.7.

**18.14(5) Bailment shipments.** Records of bailment shipments include, but are not limited to, information derived from suppliers concerning shipments of alcoholic liquor into the state warehouse facility, information generated internally concerning alcoholic liquor received from suppliers, information generated by the agency for accounting purposes concerning liquor purchases from suppliers, and information generated by the agency for purposes of inventory control. Records of bailment shipments may contain personally identifiable information on class “E” retail alcohol licensees, and to the extent that such record contains information on purchases of liquor by individual class “E” retail alcohol licensees, the record is confidential. These records are collected and maintained pursuant to Iowa Code section 123.30. Records of bailment shipments are stored in extant form and in automated data processing systems. The method of storage does not match, collate, or permit comparison with other data processing systems, except that comparisons may be made for purposes of agency tracking or auditing liquor inventory.

**18.14(6) Nonliquor related vendors.** Nonliquor related vendors include, but are not limited to, records of purchases of office supplies, warehouse supplies, trucks, trucking equipment and repairs, used in the internal operation of the agency. These records may contain personally identifiable information, and are collected and maintained pursuant to Iowa Code section 123.20. The information contained in these records is public information. These records are stored in extant form, and do not match, collate or permit comparison with automated data processing systems.

**18.14(7) Leases.** Leases include records related to agency subleasing of former state liquor stores, the names and addresses of sublessees and landlords, and information concerning the buildings. This information is collected and maintained pursuant to Iowa Code section 123.20, and is public information. The records are stored in extant form and do not match, collate or permit comparison with automated data processing systems.

**18.14(8) Inspections and audits of licensees’ books and records.** Inspections and audits of licensees’ books and records contain personally identifiable information relating to the operation of licensed establishments and beer and wine wholesalers’ operations. These records are collected and maintained pursuant to Iowa Code sections 123.33 and 123.138. These records are stored in extant

form, and the manner of storage does not permit comparison with automated data processing systems. The information is public information, except to the extent that the records concerning purchases of liquor made by class “E” retail alcohol licensees from the agency are confidential. To the extent that these records may be used in anticipation of formal administrative proceedings, criminal or civil proceedings against a licensee or permittee, this chapter does not apply to these records.

**18.14(9) *Litigation files.*** These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys’ notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

**18.14(10) *Personnel files.*** The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—18.15(123,22) Other groups of records.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 185—18.1(123,22). These records are routinely available to the public. However, the agency’s files of these records may contain confidential information as discussed in rule 185—18.13(123,22). The records listed may contain information about individuals.

**18.15(1) *Rule making.*** Rule-making records may contain information about individuals making written or oral comments or proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

**18.15(2) *Commission records.*** Agendas, minutes, and materials presented to the alcoholic beverages commission are available at the central offices of the alcoholic beverages division, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4). Council and commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored in an automated data processing system.

**18.15(3) *Publications.*** News releases, annual reports, project reports, agency newsletters, etc., are available at the central offices of the alcoholic beverages division. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored in an automated data processing system.

**18.15(4) *Statistical reports and compilations.*** Periodic reports of alcoholic liquor sales, statistics concerning statewide and regional consumption of liquor, wine, and beer, and lists of active and inactive licensees and permittees are available at the central offices of alcoholic beverages division.

**18.15(5) *Policy manuals.*** The agency employees’ manual, containing the policies and procedures for programs administered by the agency, is available in every office of the agency. Subscriptions to all or part of the employees’ manual are available at the cost of production and handling. Requests for subscription information should be addressed to Chief, Licensing Bureau, Alcoholic Beverages Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021. Policy manuals do not contain information about individuals.

**18.15(6) *Other records.*** All other records that are not exempted from disclosure by law.

**185—18.16(123,22) Other records.** The agency maintains a variety of records which do not generally contain information pertaining to named individuals. The agency maintains the following records, not heretofore listed, which do not generally contain personally identifiable information: inventory control

reports, records of purchases by the agency from vendors, auditing data, budgetary information, reports of total licensing fees generated by class of licensee or permittee, reports of total number of licenses and permits issued, reports of total number of bottles sold or purchased, reports of gallons of alcoholic liquor sold or purchased, bills of lading, and manifests.

**185—18.17(123,22) Applicability.** This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

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## **MEDICINE BOARD[653]**

[Prior to 5/4/88, see Health Department[470], Chs 135 and 136, renamed Medical Examiners Board[653] under the “umbrella” of Public Health Department[641] by 1986 Iowa Acts, ch 1245]  
[Prior to 7/4/07, see Medical Examiners Board[653]; renamed by 2007 Iowa Acts, Senate File 74]

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PERMANENT AND ADMINISTRATIVE MEDICINE PHYSICIAN LICENSURE

[Prior to 5/30/01, see 653—Chapter 11]

**653—9.1(147,148) Definitions.**

“*ABMS*” means the American Board of Medical Specialties, which is an umbrella organization for at least 24 medical specialty boards in the United States that assists the specialty boards in developing and implementing educational and professional standards to evaluate and certify physician specialists in the United States. The board recognizes specialty board certification by ABMS.

“*ACGME*” means the Accreditation Council for Graduate Medical Education, an accreditation body that is responsible for accreditation of post-medical school training programs in medicine and surgery in the United States of America. The board approves resident training programs accredited by ACGME.

“*Administrative medicine*” means administration or management utilizing the medical and clinical knowledge, skill, and judgment of a licensed physician and capable of affecting the health and safety of the public or any person. A physician with an administrative medicine license may advise organizations, both public and private, on health care matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and perform other similar duties that do not require direct patient care. “Administrative medicine” does not include the authority to practice clinical medicine; examine, care for or treat patients; prescribe medications, including controlled substances; or delegate medical acts or prescriptive authority to others.

“*Administrative medicine license*” means a license issued by the board pursuant to 653—9.20(147,148).

“*AMA*” means the American Medical Association, a professional organization of physicians and surgeons.

“*Any jurisdiction*” means any state, the District of Columbia or territory of the United States of America or any other nation.

“*Any United States jurisdiction*” means any state, the District of Columbia or territory of the United States of America.

“*AOA*” means the American Osteopathic Association, which is the representative organization for osteopathic physicians (D.O.s) in the United States. The board approves osteopathic medical education programs with AOA accreditation; the board approves AOA-accredited resident training programs in osteopathic medicine and surgery at hospitals for graduates of accredited osteopathic medical schools. The board recognizes specialty board certification by AOA. The board recognizes continuing medical education accredited by the Council on Continuing Medical Education of AOA.

“*Applicant*” means a person who seeks authorization to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine in this state by making application to the board, or a physician who seeks licensure through the IMLC.

“*Approved abuse education training program*” means a training program using a curriculum approved by the abuse education review panel of the department of public health or a training program offered by a hospital, a professional organization for physicians, or the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

“*Board*” means Iowa board of medicine.

“*Board-approved resident training program*” means a hospital-affiliated graduate medical education program accredited by ACGME, AOA, RCPSC, or CFPC at the time the applicant is enrolled in the program.

“*Candidate*” means a person who applies to sit for an examination administered by the board or its designated testing service.

“*Category 1 credit*” means any formal education program which is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical Education of AOA that is of sufficient scope and depth of coverage of a subject area or theme to form an educational unit and

is planned, administered and evaluated in terms of educational objectives that define a level of knowledge or a specific performance skill to be attained by the physician completing the program. Credits designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credits by the American Academy of Family Physicians are accepted as equivalent to category 1 credits.

“*CFPC*” means the College of Family Physicians of Canada, an organization that accredits graduate medical education in family practice in Canada.

“*COCA*” means the Commission on Osteopathic College Accreditation.

“*COMLEX*” means the Comprehensive Osteopathic Medical Licensing Examination that is recognized by the board as the licensure examination that replaced the NBOME examination for graduates of osteopathic medical schools or colleges.

“*Committee*” means the licensure committee of the board.

“*COMVEX-USA*” means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America. The National Board of Osteopathic Medical Examiners prepares the examination and determines its passing score. A licensing authority in any jurisdiction administers the examination. COMVEX-USA is the current evaluative instrument offered to osteopathic physicians who need to demonstrate current osteopathic medical knowledge.

“*Conviction*” for the purposes of licensure through the IMLC means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of conviction of a criminal offense by the court shall be considered final for the purposes of disciplinary action by a member board of the IMLC.

“*Core credentials*” means those documents that demonstrate the applicant’s identity, medical training and practice history. “Core credentials” includes but is not limited to: medical school verification, medical school diploma, examination history, current ECFMG status report, fifth pathway certificate, and postgraduate training verification.

“*Criminal offense*” for the purposes of licensure through the IMLC means a felony, gross misdemeanor, or crime of moral turpitude.

“*Current, active status*” means a license that is in effect and grants the privilege of practicing administrative medicine, medicine and surgery or osteopathic medicine and surgery, as applicable.

“*ECFMG*” means the Educational Commission for Foreign Medical Graduates, an organization that assesses the readiness of foreign medical school graduates to enter ACGME-approved graduate medical education programs in the United States.

“*Expedited license*” means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the IMLC.

“*FCVS*” means the Federation Credentials Verification Service, a service under the Federation of State Medical Boards that verifies and stores core credentials for retrieval whenever needed.

“*FLEX*” means the Federation Licensing Examination, a licensure examination used in the past that was approved by the board for graduates with a medical degree.

“*Foreign medical school,*” also known as an “international medical school,” means a medical school that is located outside of any United States jurisdiction or Canada.

“*FSMB*” means the Federation of State Medical Boards, the organization of medical boards of the United States of America.

“*IMLC*” means the Interstate Medical Licensure Compact enacted in Iowa Code chapter 147B.

“*Inactive license*” means any license that is not in current, active status. A physician whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice under an inactive Iowa license until the inactive license is reinstated to active status.

“*Incidentally called into this state in consultation with a physician and surgeon licensed in this state*” as set forth in Iowa Code section 148.2(5) means all of the following shall be true:

1. The consulting physician shall be involved in the care of patients in Iowa only at the request of an Iowa-licensed physician.
2. The consulting physician has a license in good standing in another United States jurisdiction.
3. The consulting physician provides expertise and acts in an advisory capacity to an Iowa-licensed physician. The consulting physician may examine the patient and advise an Iowa-licensed physician as

to the care that should be provided, but the consulting physician may not personally perform procedures, write orders, or prescribe for the patient.

4. The consulting physician practices in Iowa for a period not greater than 10 consecutive days and not more than 20 total days in any calendar year. Any portion of a day counts as one day.

5. The Iowa-licensed physician requesting the consultation retains the primary responsibility for the management of the patient's care.

*"Initial license"* means the first permanent or administrative medicine license granted to a qualified individual.

*"International medical school,"* also known as a "foreign medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

*"Interstate commission"* means the interstate commission created pursuant to Iowa Code chapter 147B.

*"LCME"* means Liaison Committee on Medical Education, an organization that accredits educational institutions granting degrees in medicine and surgery. The board approves programs that are accredited by LCME.

*"LMCC"* means enrollment in the Canadian Medical Register as Licentiate of Medical Council of Canada with a certificate of registration as proof. LMCC requires passing both parts of the Medical Council of Canada Qualifying Examination.

*"MCCEE"* means the Medical Council of Canada Evaluating Examination, an examination administered in Canada to physicians who graduated from a medical school outside of the United States or Canada.

*"Medical degree"* means a degree of doctor of medicine and surgery or osteopathic medicine and surgery or comparable education from a foreign medical school.

*"National Practitioner Data Bank"* is a national data bank of disciplinary actions taken against health professionals, including physicians.

*"NBME"* means the National Board of Medical Examiners, an organization that prepares and administers qualifying examinations, either independently or jointly with other organizations.

*"NBOME"* means the National Board of Osteopathic Medical Examiners, an organization that prepares and administers qualifying examinations for osteopathic physicians.

*"Observer"* means a person who is not enrolled in an LCME- or COCA-accredited medical school or osteopathic medical school, who observes care to patients in Iowa for a defined period of time and for a noncredit experience, and who is supervised and accompanied by an Iowa-licensed physician as defined in 9.2(3). An observer shall not provide or direct hands-on patient care, regardless of the observer's level of training or supervision. The supervising physician may authorize an observer to read a chart, observe a patient interview or examination, or witness procedures, including surgery. An observer shall not chart; touch a patient as part of an examination; conduct an interview; order, prescribe or administer medications; make decisions that affect patient care; direct others in providing patient care; or conduct procedures, including surgery. Any of these activities requires licensure to practice in Iowa. An unlicensed physician observer or a medical student observer who is not enrolled in an LCME- or COCA-accredited medical school may touch a patient to verify a physical finding in the immediate presence of a physician but shall not conduct a more inclusive physical examination.

An unlicensed physician observer may:

1. Participate in discussions regarding the care of individual patients, including offering suggestions about diagnosis or treatment, provided the unlicensed physician observer does not direct the care; and

2. Elicit information from a patient provided the unlicensed physician observer does not actually perform a physical examination or otherwise touch the patient.

*"Permanent licensure"* means licensure granted after review of the application and core credentials to determine that the individual is qualified to enter into clinical practice. The individual may only practice when the license is in current, active status.

*"Practice"* means the practice of medicine and surgery or osteopathic medicine and surgery.

*"Primary source verification"* means:

1. Verification of the authenticity of documents with the original source that issued the document.
2. Original source verification by another jurisdiction's physician licensing organization.
3. Original source verification by the FSMB's Federation Credentials Verification Service.

"RCPSC" means the Royal College of Physicians and Surgeons of Canada, an organization that accredits graduate medical education in Canada.

"Reinstatement" means the process for returning an inactive license to current, active status.

"Relinquishment" means that a person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine is deemed abandoned if the person fails to renew or reinstate the license within five years after its expiration. A license that has been relinquished is no longer valid or renewable. Relinquishment is not disciplinary in nature.

"Resident physician" means a physician enrolled in an internship, residency or fellowship.

"Resident training program" means a hospital-affiliated graduate medical education program that enrolls interns, residents or fellows and may be referred to as a postgraduate training program for purposes of licensure.

"Service charge" means the amount charged for making a service available on line and is in addition to the actual fee for a service itself. For example, one who renews a license on line will pay the license renewal fee and a service charge.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. The passing score on SPEX is 75.

"Terminated license" means a nondisciplinary process by which an Iowa license issued through the Interstate Medical Licensure Compact is no longer eligible for renewal. A compact license is terminated when a licensee no longer meets the IMLC qualifications. A terminated IMLC license may not be reinstated.

"Training for chronic pain management" means required training on chronic pain management identified in 653—Chapter 11.

"Training for end-of-life care" means required training on end-of-life care identified in 653—Chapter 11.

"Training for identifying and reporting abuse" means training on identifying and reporting child abuse or dependent adult abuse required of physicians who regularly provide primary health care to children or adults, respectively, as specified in 653—Chapter 11. 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.

"Uniform application for physician state licensure" means a web-based application that is intended to standardize and simplify the licensure application process for state medical licensure. The Federation of State Medical Boards created and maintains the application. This application is used for all license types issued by the Iowa board of medicine.

"USMLE" means the United States Medical Licensing Examination.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 2346C, IAB 1/6/16, effective 2/10/16; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

### **653—9.2(147,148) General licensure provisions.**

**9.2(1) Licensure required.** Licensure is required for practice in Iowa as identified in Iowa Code section 148.1; the exceptions are identified in subrule 9.2(2). Provisions for permanent physician licensure, licensure through the IMLC, and administrative medicine licensure are found in this chapter; provisions for resident, special and temporary physician licensure are found in 653—Chapter 10.

**9.2(2) Licensure not required.** The following persons are not required to obtain a license to practice in Iowa:

- a. Those persons described in Iowa Code sections 148.2(1) to 148.2(5).

(1) A medical student or osteopathic medical student in an international medical school may not take on the role of a medical student in the patient care setting unless the student is enrolled in the University of Iowa's Carver College of Medicine or in Des Moines University's College of Osteopathic



Medicine; however, an international medical student not enrolled at either of these institutions may be an observer as defined in rule 653—9.1(147,148).

(2) A graduate of an international medical school shall not practice medicine without an Iowa medical license; however, the graduate may be an observer as defined in rule 653—9.1(147,148).

*b.* Those persons who are incidentally called into this state in consultation with a physician or surgeon licensed in this state as described in Iowa Code section 148.2(5) and as defined in rule 653—9.1(147,148).

*c.* Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come into Iowa on a temporary basis to aid disaster victims at the time of a disaster in accordance with Iowa Code section 29C.6.

*d.* Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come to Iowa to participate in further medical education may participate in patient care under the request and supervision of the patient's Iowa-licensed physician in charge of the education. The Iowa-licensed physician shall retain the primary responsibility for management of the patient's care.

*e.* Physicians and surgeons who hold a current, active license in good standing in another United States jurisdiction and who come into Iowa to serve as expert witnesses as long as they do not provide treatment.

*f.* Physicians and surgeons from out of state who hold a current, active license in good standing in another United States jurisdiction and who accompany one or more individuals into Iowa for the purpose of providing medical care to these individuals on a short-term basis, e.g., a team physician for an out-of-state college football team that comes into Iowa for a game.

*g.* Physicians and surgeons who come to Iowa to observe patient care and who do not provide or direct hands-on patient care.

*h.* Visiting resident physicians who come to Iowa to practice as part of their resident training program if under the supervision of an Iowa-licensed physician. An Iowa physician license is not required of a physician in training if the physician has a resident or permanent license in good standing in the home state of the resident training program. An Iowa temporary license is required of a physician in training if the physician does not hold a resident or permanent physician license in good standing in the home state of the resident training program (see rule 653—10.5(147,148)).

**9.2(3) *Supervision of an observer.*** An Iowa-licensed physician who supervises an observer shall accompany the observer and solicit consent from each patient, where feasible, for the observation. The physician shall inform the patient of the observer's background, e.g., high school student considering a medical career, a medical graduate who is working on licensure. The supervising physician shall ensure that the observer remains within the scope of an observer as defined in rule 653—9.1(147,148).

[ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 3587C, IAB 1/17/18, effective 2/21/18]

### **653—9.3(147,148) Eligibility for licensure.**

**9.3(1) *Requirements.*** To be eligible for permanent or administrative medicine licensure, an applicant shall meet all of the following requirements:

*a.* Fulfill the application requirements specified in rule 653—9.4(147,148).  
*b.* Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) Educational institutions approved by the board shall be fully accredited by an accrediting agency recognized by the board as schools of instruction in medicine and surgery or osteopathic medicine and surgery and empowered to grant academic degrees in medicine.

(2) The accrediting bodies currently recognized by the board are:

1. LCME for the educational institutions granting degrees in medicine and surgery; and
2. AOA for educational institutions granting degrees in osteopathic medicine and surgery.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant shall meet one of the following requirements:

1. Hold a valid certificate issued by ECFMG;
2. Pass the MCCEE;
3. Have successfully completed a fifth pathway program established in accordance with AMA criteria;
4. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and have successfully completed three years of resident training in a program approved by the board; and have submitted evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction; or

5. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and hold board certification by a specialty board approved by ABMS or AOA; and submit evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction.

c. Have successfully completed one year of resident training in a hospital-affiliated program approved by the board at the time the applicant was enrolled in the program. An applicant who is a graduate of an international medical school shall have successfully completed 24 months of such training.

(1) For those required to have 12 months of training, the program shall have been 12 months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board. For those required to have 24 months of training, the program shall have been 24 continuous months of progressive training in not more than two specialties and in not more than two programs approved for resident training by the board.

(2) Resident training approved by the board shall be accredited by an accrediting agency recognized by the board for the purpose of accrediting resident training programs.

(3) The board approves resident training programs accredited by:

1. ACGME;
2. AOA;
3. RCPSC; and
4. CFPC.

(4) The board may accept resident training that is not accredited as specified in subparagraph 9.3(1)“c”(3) on a case-by-case basis. In making this determination, the board may consider any relevant factors, including but not limited to the following:

1. The length of time the program has been in existence;
2. The location of the program;
3. The institution or organization that administers the program;
4. The reason that the program is not accredited; and
5. Whether the program is accredited or recognized by any agency other than those listed in subparagraph 9.3(1)“c”(3).

(5) The board shall accept each 12 months of practice as a special licensee as equivalent to one year of resident training in a hospital-affiliated program approved by the board.

(6) The board may accept a current, active ABMS or AOA board certification obtained through an alternate pathway as equivalent to resident training in a hospital-affiliated program approved by the board. The alternate pathway must be a minimum of 24 months completed at an institution with a program approved by the board as specified in subparagraph 9.3(1)“c”(3).

d. Pass one of the licensure examinations or combinations as prescribed in rule 653—9.7(147,148).

**9.3(2) *Exceptions to the eligibility requirements.***

a. A military service applicant or a veteran may apply for credit for verified military education, training, or service toward any experience or educational requirement for permanent licensure under this subrule or may be eligible for permanent licensure through reciprocity as specified in 653—Chapter 18.

b. A physician who holds a valid Letter of Qualification asserting eligibility for licensure through the IMLC is eligible for a permanent Iowa medical license.

**9.3(3) *Use of criminal convictions in eligibility determinations and initial licensing decisions.***

*a. Definitions.*

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

*b. License application.* Unless an applicant for licensure petitions the board for an eligibility determination pursuant to paragraph 9.3(3) “c,” the applicant’s convictions will be reviewed when the board receives a completed license application.

(1) An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

(2) An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

(3) An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

(4) The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

(5) An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

(6) Any application fees paid will not be refunded if the license is denied.

*c. Eligibility determination.*

(1) An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual’s convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

(2) To petition the board for an eligibility determination of whether one or more of the petitioner’s convictions are disqualifying offenses, a petitioner shall submit all of the following:

1. A completed petition for eligibility determination form;

2. The complete criminal record for each of the petitioner’s convictions;

3. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;

4. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

5. Payment of a nonrefundable fee of \$25.

*d. Appeal.* A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board’s written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board’s rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner fails to timely appeal, the board’s written decision will become a final order.

(1) An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

(2) The contested case hearing shall be closed to the public, and the board’s review of a proposed decision shall occur in closed session.

(3) The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

(4) A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

*e. Future petitions or applications.* If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18; ARC 5749C, IAB 7/14/21, effective 8/18/21; ARC 6682C, IAB 11/30/22, effective 1/4/23]

### **653—9.4(147,148) Licensure application.**

**9.4(1) Requirements.** To apply for licensure, an applicant shall:

*a.* Pay a nonrefundable initial application fee and fee for the 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) as specified in 653—paragraph 8.4(1) “a”; and

*b.* Complete and submit forms provided by the board, including required core credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant, which has been signed by the applicant in the physical presence (in the same room) of a notary public.

*c.* Pass one of the examinations as prescribed in rule 653—9.7(147,148) and authorize the testing authority to verify scores.

**9.4(2) Application.** The application shall require the following information:

*a.* Full legal name, date and place of birth, home address, mailing address, principal business address, and personal e-mail address regularly used by the applicant or licensee for correspondence with the board.

*b.* A photograph of the applicant suitable for positive identification.

*c.* A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

*d.* A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application.

*e.* A certified statement of scores on any licensure examination required in rule 653—9.7(147,148) that the applicant has taken in any jurisdiction. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

*f.* A photocopy of the applicant's medical degree issued by an educational institution.

(1) A complete translation of any diploma not written in English shall be submitted. An official transcript, written in English and received directly from the school, showing graduation from medical school is a suitable alternative.

(2) An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

(3) If a copy of the medical degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution.

*g.* A sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in

the institution's record about the applicant. If a sworn statement from an official of the educational institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution.

*h.* An official transcript, or its equivalent, received directly from the school for every medical school attended if requested by the board. A complete translation of any transcript not written in English shall be submitted if requested by the board. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

*i.* If the educational institution awarding the applicant the degree has not been approved by the board, the applicant shall provide a current ECFMG status report or evidence of successful completion of a fifth pathway program in accordance with criteria established by AMA. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

*j.* Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)“c.” An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

*k.* Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

*l.* A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

*m.* A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care. Copies of evaluations, verification of medical condition from treating physicians, or other documentation may be requested if needed during the review process.

*n.* A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process.

*o.* A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding to have the conviction or plea set aside is pending. Copies of the legal documents may be requested if needed during the review process.

*p.* A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 1187C, IAB 11/27/13, effective 1/1/14; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.5(272C) Licensure by verification.** Licensure by verification is available in accordance with the following:

**9.5(1) Eligibility.** A person may seek licensure by verification if the person is currently licensed as a physician in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

**9.5(2) Board application.** The applicant must submit the following:

*a.* A completed application for licensure by verification.  
*b.* Payment of the application fee.  
*c.* A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

*d.* A verification form, completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form must be sent directly from the licensing authority to the board.

- e.* Proof of passing an examination as required by rule 653—9.7(147,148).
- f.* A copy of the complete criminal record, if the applicant has a criminal history.
- g.* A copy of the relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- h.* A written statement from the applicant detailing the scope of practice in the other state.
- i.* Copies of relevant laws setting forth the scope of practice in the other state.

**9.5(3) *Applicants with prior discipline.*** If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

**9.5(4) *Applicants with pending licensing complaints or investigations.*** If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

**9.5(5) *Temporary licenses.*** Applicants who satisfy all requirements for a license under this section except for passing a required examination specific to the laws of this state may be issued a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months. The applicant must submit proof of passing the required examination before the temporary license expires.

[ARC 7074C, IAB 9/20/23, effective 10/25/23]

**653—9.6(147,148) Licensure by expedited endorsement.** Rescinded ARC 3587C, IAB 1/17/18, effective 2/21/18.

**653—9.7(147,148) Licensure examinations.**

**9.7(1) *USMLE.***

*a.* The USMLE is a joint program of FSMB and the NBME. The USMLE is a multipart examination consisting of Step 1, Step 2, and Step 3. Steps 1 and 2 are administered by NBME and ECFMG. The board contracts with FSMB for the administration of Step 3. USMLE Steps 1 and 2 were implemented in 1992; Step 3 was implemented in 1994.

*b.* Since 1999, Step 3 is a computerized examination offered at testing centers in the Des Moines area and other locations around Iowa and the United States.

*c.* Applications are available at Department of Examination Services, FSMB, 400 Fuller Wisser Road, Suite 300, Euless, Texas 76039, or [www.fsmb.org](http://www.fsmb.org).

*d.* Candidates who meet the following requirements are eligible to take USMLE Step 3:

(1) Submit a completed application form and pay the required examination fee as specified in rule 653—8.3(147,148,272C).

(2) Document successful completion of USMLE Steps 1 and 2 in accordance with the requirements of NBME. Graduates of a foreign medical school shall meet the requirements of ECFMG.

(3) Document holding a medical degree from a board-approved educational institution. If a candidate holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the candidate shall meet the requirements specified in subparagraph 9.3(1)“b”(3).

(4) Document successful completion of a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Step 3 or enrollment in a resident training program approved by the board at the time of the application for Step 3.

*e.* The following conditions shall apply to applicants for licensure in Iowa who utilize USMLE as the licensure examination.

(1) Passing Steps 1, 2, and 3 is required within a ten-year period beginning with the date of passing either Step 1 or Step 2, whichever occurred first. If the applicant did not pass Steps 1, 2, and 3 within the

required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA or proof the delay was caused by participation in a joint M.D./Ph.D. or D.O./Ph.D. program.

(2) Step 3 may be taken and passed only after Steps 1 and 2 are passed.

(3) A score of 75 or better on each step shall constitute a passing score on that step.

(4) Each USMLE step must be passed individually, and individual step scores shall not be averaged to compute an overall score.

(5) A failure of any USMLE step, regardless of the jurisdiction for which it was taken, shall be considered a failure of that step for the purposes of Iowa licensure.

(6) Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Step 1 or six attempts on Step 2 CK and Step 2 CS combined or three attempts on Step 3.

*f.* Any candidate deemed eligible to sit for USMLE Step 3 is required to adhere to the examination procedures and protocol established by FSMB and NBME in the following publications: USMLE Test Administration Standards and Policies and Procedures Regarding Indeterminate Scores and Irregular Behavior, FSMB, 400 Fuller Wiser Road, Suite 300, Euless, Texas 76039.

**9.7(2) NBME.**

*a.* NBME Part Examinations (Parts I, II, and III) were first administered in 1916. The last regular administration of Part I occurred in 1991, Part II in April 1992, and Part III in May 1994.

*b.* Successful completion of NBME Parts I, II, and III was a requirement for NBME certification.

*c.* A score of 75 or better on each part shall constitute a passing score on that part.

**9.7(3) FLEX.**

*a.* From 1968 to 1985, (Old) FLEX was a three-day examination. Day 1 covered basic science; Day 2 covered clinical science; and Day 3 covered clinical competency. Applicants who took Old FLEX shall provide evidence of successful achievement of at least two of the following:

(1) Certification under seal that the applicant passed FLEX with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two sittings.

(2) Verification under seal of medical licensure in the state that administered the examination.

(3) Evidence of current certification by an American specialty board approved or recognized by the Council of Medical Education of AMA, ABMS, or AOA.

*b.* From 1985 to 1994, (New) FLEX replaced the Old FLEX. New FLEX was a three-day nationally standardized examination consisting of two, one and one-half day components referred to as Component I (basic and clinical science principles and mechanisms underlying disease and modes of therapy) and Component II (knowledge and cognitive abilities required of a physician assuming independent responsibility for the general delivery of medical care to patients). The last regular administration of both components of New FLEX occurred in 1993. Two special administrations of New FLEX Component I were offered in 1994 to examinees who passed Component II but not Component I prior to 1994. To be eligible for licensure, the candidate must have passed both components with a FLEX score of 75 or better within a seven-year period beginning with the date of initial examination.

(1) Candidates who took the FLEX for the first time were required to take both components during the initial sitting. A candidate who failed either or both components must have repeated and passed the component failed, though Component II could only be repeated if the candidate had received a passing score of 75 percent or better on Component I.

(2) Eligible candidates were permitted to sit for the initial examination and reapply to the board to repeat a failed component or complete the entire examination two additional times. However, candidates who failed either or both components three times were required to wait one year, during which time the candidate was encouraged to obtain additional training, before being permitted to sit two additional times for either or both components of the FLEX.

**9.7(4) Combination examination sequences.** To accommodate individuals who had already passed some part of the NBME Parts or FLEX before implementation of the USMLE, the USMLE program recommended and the board approved the following licensing combinations of examinations for

licensure only if completed prior to January 1, 2000. These combinations are now only acceptable from an applicant who already holds a license from any United States jurisdiction.

*a.* FLEX Component I plus USMLE Step 3 with a passing score of 75 or better on each examination;

*b.* NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus FLEX Component II with a passing score of 75 or better on each examination; or

*c.* NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus NBME Part III or USMLE Step 3 with a passing score of 75 or better on each examination.

**9.7(5) COMLEX.** COMLEX is a three-level examination that replaced the three-part NBOME examination. COMLEX Level 3 was first administered in February 1995; Level 2 was first administered in March 1997; and Level 1 was first administered in June 1998. All three examinations must be successfully completed in sequential order within ten years of the successful completion of COMLEX Level 1. If the applicant did not pass Levels 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA or proof the delay was caused by participation in a joint D.O./Ph.D. or M.D./Ph.D. program.

*a.* A standard score of 400 on Level 1 or Level 2 is required to pass the examination. A standard score of 350 on Level 3 is required to pass the examination.

*b.* A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Level 3 or enrollment in a resident training program approved by the board at the time of the application for Level 3.

*c.* Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Level 1 or six attempts on Level 2 CE and Level 2 PF combined or three attempts on Level 3.

*d.* Each COMLEX level must be passed individually, and individual level scores shall not be averaged to compute an overall score.

*e.* Level 3 may be taken and passed only after Levels 1 and 2 are passed.

*f.* A failure of any COMLEX level, regardless of the jurisdiction for which it was taken, shall be considered a failure of that level for the purposes of Iowa licensure.

**9.7(6) NBOME.**

*a.* NBOME was a three-part examination. All three parts must have been successfully completed in sequential order within seven years of the successful completion of NBOME Part 1.

*b.* A passing score is required on each part of the examination.

*c.* A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for NBOME Part 3. Candidates shall have completed their resident training by the last day of the month in which the examination was taken.

*d.* Successful completion of a three-year resident training program is required if the applicant passes the examination after more than six attempts on Part 1 or six attempts on Part 2 or three attempts on Part 3.

*e.* Each NBOME part must have been passed individually, and individual part scores shall not be averaged to compute an overall score.

*f.* Part 3 must have been taken and passed only after Parts 1 and 2 were passed.

*g.* A failure of any NBOME part, regardless of the jurisdiction for which it was taken, shall be considered a failure of that part for the purposes of Iowa licensure.

**9.7(7) LMCC.**

*a.* The board accepts toward Iowa licensure a verification of a licentiate's registration with the Medical Council of Canada, based on passing both parts of the Medical Council of Canada Qualifying Examination.

*b.* The Medical Council of Canada may be contacted at 1021 Thomas Spratt Place, Ottawa, Ontario, Canada K1G 5L5 or (613) 520-2240.

**9.7(8) State licensing examinations.** The Iowa board of medicine administered a state licensing examination until 1968. Licensing examinations administered by the Iowa board of medicine or



another U.S. jurisdiction prior to 1974 are accepted if the examination was passed according to criteria established by that state at the time and led to licensure in that state.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.8(147,148) Permanent licensure application review process.** The process below shall be utilized to review each application. Priority shall be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

**9.8(1)** An application for initial licensure shall be considered open from the date the application form is received in the board office with the nonrefundable initial licensure fee.

**9.8(2)** After reviewing each application, board staff shall notify the applicant about how to resolve any problems. An applicant shall provide additional information when requested by staff or the board.

**9.8(3)** If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant the license. The staff may grant the license without having received a report on the applicant from the FBI.

**9.8(4)** If the final review indicates questions or concerns that cannot be remedied by continued communication with the physician, the executive director, director of licensure and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

*a.* If there is no current concern, staff shall administratively grant the license.

*b.* If any concern exists, the application shall be referred to the committee.

**9.8(5)** Staff shall refer to the committee for review matters which include but are not limited to: falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, or professional disciplinary history.

**9.8(6)** If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant the license administratively.

**9.8(7)** If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

*a.* Request an investigation;

*b.* Request that the applicant appear for an interview;

*c.* If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

*d.* Grant a license;

*e.* Grant a license under certain terms and conditions or with certain restrictions;

*f.* Request that the applicant withdraw the licensure application; or

*g.* Deny a license.

**9.8(8)** The board shall consider applications and recommendations from the committee and shall:

*a.* Request further investigation;

*b.* Require that the applicant appear for an interview;

*c.* If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) Successfully pass a competency evaluation approved by the board;

(2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;

(3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or

(4) Successfully complete a reentry to practice program or monitoring program approved by the board.

*d.* Grant a license;

*e.* Grant a license under certain terms and conditions or with certain restrictions;

*f.* Request that the applicant withdraw the licensure application; or

*g.* Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule 653—9.17(147,148). [ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

### **653—9.9(147,148) Licensure application cycle.**

**9.9(1) *Failure to submit application materials.*** If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status.

**9.9(2) *Reactivation of the application.*** To reactivate the application, an applicant shall submit a nonrefundable fee for reactivation of the application as specified in 653—paragraph 8.4(1) "b" within 30 days. If the application is not reactivated within 30 days, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

**9.9(3) *Period of reactivation.*** The period for reactivation of application shall extend 90 days from the date the request and fee are received in the board office. During this period, the applicant shall update core credentials and submit the remaining requested materials. If the applicant does not update core credentials or submit all materials during the 90-day period of reactivation, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.10(147,148) Discretionary board actions on licensure applications.** As circumstances warrant, the board may determine that any applicant for licensure is subject to the following:

**9.10(1)** The board may impose limits or restrictions on the practice of any applicant in this state that are equal in force to the limits or restrictions imposed on the applicant by any jurisdiction.

**9.10(2)** The board may defer final action on an application for licensure if there is an investigation or disciplinary action pending against an applicant in any jurisdiction until such time as the board is satisfied that licensure of the applicant poses no risk to the health and safety of Iowans.

**9.10(3)** The board is not precluded from taking disciplinary action after licensure is granted related to issues that arose in the licensure application process.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 3587C, IAB 1/17/18, effective 2/21/18]

### **653—9.11(147,148) Issuance of a license.**

**9.11(1) *Issuance.*** Upon the granting of permanent or administrative medicine licensure, staff shall issue a license to practice that shall expire on the first day of the licensee's birth month.

*a.* Licenses of persons born in even-numbered years shall expire in an even-numbered year, and licenses of persons born in odd-numbered years shall expire in an odd-numbered year.

*b.* The license shall not be issued for a period less than two months or greater than two years and two months, in accordance with the licensee's month and year of birth.

*c.* When a resident physician receives a permanent Iowa license, the resident physician license shall immediately become inactive.

*d.* When a physician with a special license receives a permanent Iowa license, the special license shall immediately become inactive.

*e.* When a physician with a permanent Iowa license receives an Iowa administrative medicine license, the permanent Iowa license shall immediately become inactive.

*f.* A physician with an active permanent Iowa license is ineligible for an Iowa resident license.

**9.11(2) Display of license certificate.** The license certificate shall be displayed in the licensee's primary location of practice.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.12(147,148) Notification required to change the board's data system.**

**9.12(1) Change of contact information.** A licensee shall notify the board of any change in the home address, the address of the place of practice, home or practice telephone number, or personal e-mail address regularly used by the applicant or licensee for correspondence with the board within one month of the change.

**9.12(2) Change of name.** A licensee shall notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

**9.12(3) Deceased.** A licensee file shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate or other reliable information of the licensee's death.

**9.12(4) Practice name.** A licensee shall practice under the licensee's full legal name.  
[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.13(147,148) Renewal of a permanent or administrative medicine license.**

**9.13(1) Renewal notice.** Staff shall send a renewal notice to each licensee at least 60 days prior to the expiration of the license. The renewal notice may be sent by e-mail or by regular mail at the discretion of staff. If e-mail is used for notification of licensure renewal, the notice shall be sent to the personal e-mail address specified in subrule 9.12(1).

**9.13(2) Licensee obligation.** The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of responsibility for renewing that license.

**9.13(3) Renewal application requirements.** A licensee seeking renewal shall submit a completed renewal application; information on continuing education, training on chronic pain management, training on end-of-life care, and training on identifying and reporting abuse; and the required fee prior to the expiration date on the current license.

*a.* Renewal fee.

(1) The fees for renewal made via paper application or via on-line application are specified in 653—subparagraph 8.4(1) "c"(1) and are assessed per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months.

(2) There is no renewal fee due for a physician who was on active duty in the U.S. armed forces, reserves or national guard during the renewal period. "Active duty" means full-time training or active service in the U.S. armed forces, reserves or national guard.

(3) A physician who fails to renew before the expiration of the license shall be charged a penalty fee as set forth in 653—paragraph 8.4(1) "d."

*b.* The requirements for continuing education and training on identifying and reporting abuse are found in 653—Chapter 11.

*c.* The first renewal fee shall be prorated on a monthly basis according to the date of issuance and the physician's month and year of birth, if the initial permanent or administrative medicine license was issued for a period of less than 24 months.

**9.13(4) Issuance of a renewal.** Upon receiving the completed renewal application, staff shall administratively issue a two-year license that expires on the first day of the licensee's birth month. 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.

**9.13(5) *Renewal penalties.*** If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, the licensee shall be charged a penalty fee as set forth in 653—paragraph 8.4(1)“d.”

**9.13(6) *Failure to renew.*** Failure of the licensee to renew a license within two months following its expiration date shall cause the license to become inactive and invalid. A licensee whose license is invalid or inactive is prohibited from practice until the license is reinstated in accordance with rule 653—9.15(147,148).

*a.* In order to ensure that the license will not become inactive when a paper renewal form is used, the completed renewal application and appropriate fees must be received in the board office by the fifteenth of the month prior to the month the license becomes inactive. For example, a licensee whose license expires on January 1 has until March 1 to renew the license or the license becomes inactive and invalid. The licensee must submit and the board office must receive the renewal materials prior to or on February 15 to ensure that the license will be renewed prior to becoming inactive and invalid on March 1.

*b.* In order to ensure that the license will not become inactive when on-line renewal is used, the licensee must complete the on-line renewal prior to midnight of the last day of the month in the month after the expiration date on the license. For example, a licensee whose license expiration date is January 1 must complete the on-line renewal before midnight on the last day of February; the license becomes inactive and invalid at 12:01 a.m. on March 1.

**9.13(7) *Display of license.*** Renewal licenses shall be displayed along with the license certificate in the primary location of practice.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 0871C, IAB 7/24/13, effective 8/28/13; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

### **653—9.14(147,148) Inactive status and reinstatement of a license.**

**9.14(1) *Definition of inactive status.*** An inactive license is any license that is not a current, active license.

*a.* “Inactive status” may include licenses formerly known as delinquent, lapsed, or retired.

*b.* A physician with an inactive license may not practice medicine until the license is reinstated to current, active status.

*c.* A physician whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice medicine under an Iowa license until the license is reinstated to current, active status. A licensee who practices under an Iowa license when the license is inactive 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, or other available legal remedies.

**9.14(2) *Mechanisms for becoming inactive.*** A licensee seeking to become inactive may do so by submitting a written request to the board office or by failing to renew a license by the first day of the third month after the expiration date. For example, a licensee whose license expires on January 1 will be considered inactive if the license is not renewed by March 1.

**9.14(3) *Fee.*** There is no fee to become inactive.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 3587C, IAB 1/17/18, effective 2/21/18]

### **653—9.15(147,148) Reinstatement of an unrestricted Iowa license.**

**9.15(1) *Reinstatement within one year of the license’s becoming inactive.*** An individual whose license is in inactive status for up to one year and who wishes to reinstate the license shall submit a completed renewal application; the reinstatement fee; documentation of continuing education; and, if applicable, documentation on training on chronic pain management, end-of-life care, and identifying and reporting abuse. All of the information shall be received in the board office within one year of the license’s becoming inactive for the applicant to reinstate under this subrule. For example, a physician whose license became inactive on March 1 has until the last day of the following February to renew under this subrule.

*a.* *Fee for reinstatement of an unrestricted Iowa license within one year of the license’s becoming inactive.* The reinstatement fee is specified in 653—paragraph 8.4(1)“g” when the license in the most

recent license period had been granted for less than 24 months; in that case, the reinstatement fee is prorated according to the date of issuance and the physician's month and year of birth.

*b. Continuing education and training requirements.* The requirements for continuing education, training on chronic pain management, training on end-of-life care, and training on identifying and reporting abuse are found in 653—Chapter 11. Applicants for reinstatement shall provide documentation of having completed:

(1) The number of hours of category 1 credit needed for renewal in the most recent license period. None of the credits obtained in the inactive period may be carried over to a future license period; and

(2) Training on chronic pain management, end-of-life care, and identifying and reporting abuse, if applicable, within the previous five years.

*c. Issuance of a reinstated license.* Upon receiving the completed application, staff shall administratively issue a license that expires on the renewal date that would have been in effect if the licensee had renewed the license before the license expired.

*d. Reinstatement application process.* The applicant who fails to submit all reinstatement information required within 365 days of the license's becoming inactive shall be required to meet the reinstatement requirements of 9.15(2). For example, if a physician's license expires on January 1, the completed reinstatement application is due in the board office by December 31, in order to meet the requirements of this subrule.

**9.15(2) Reinstatement of an unrestricted Iowa license that has been inactive for one year or longer.** An individual whose license is in inactive status and who has not submitted a reinstatement application that was received by the board within one year of the license's becoming inactive shall follow the application cycle specified in this rule and shall satisfy the following requirements for reinstatement:

*a.* Submit an application for reinstatement to the board upon forms provided by the board. The application shall require the following information:

(1) Full legal name, date and place of birth, license number, home address, mailing address, principal business address, and personal e-mail address regularly used by the applicant or licensee for correspondence with the board;

(2) A photograph of the applicant suitable for positive identification;

(3) A chronology accounting for all time periods from the date of initial licensure;

(4) Every jurisdiction in which the applicant is or has been authorized to practice including license numbers and dates of issuance;

(5) Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)“c” which was completed since the time of initial licensure. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative;

(6) Verification of the applicant's hospital and clinical staff privileges, and other professional experience for the past five years if requested by the board;

(7) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

(8) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care. Copies of evaluations, verification of medical condition from treating physicians, or other documentation may be requested if needed during the review process;

(9) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(10) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the

conviction or plea set aside. Copies of the legal documents may be requested if needed during the review process; and

(11) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

*b.* Pay the reinstatement fee plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks specified in 653—paragraph 8.4(1) “*f.*”

*c.* Provide documentation of completion of 40 hours of category 1 credit within the previous two years and documentation of training on chronic pain management, end-of-life care, and identifying and reporting abuse as specified in 653—Chapter 11.

*d.* If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

- (1) Successfully pass a competency evaluation approved by the board;
- (2) Successfully pass SPEX, COMVEX-USA, or another examination approved by the board;
- (3) Successfully complete a retraining program arranged by the physician and approved in advance by the board; or
- (4) Successfully complete a reentry to practice program or monitoring program approved by the board.

*e.* An individual who is able to submit a letter from the board with different reinstatement or reactivation criteria is eligible for reinstatement based on those criteria.

**9.15(3) Reinstatement application cycle and process.** The cycle and process are the same as described in rules 653—9.8(147,148) and 653—9.9(147,148).

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 0215C, IAB 7/25/12, effective 8/29/12; ARC 1187C, IAB 11/27/13, effective 1/1/14; ARC 2524C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.16(147,148) Reinstatement of a restricted Iowa license.** A physician whose license has been suspended or revoked following a disciplinary proceeding is required to seek reinstatement pursuant to 653—Chapter 26.

[ARC 8554B, IAB 3/10/10, effective 4/14/10]

**653—9.17(147,148) Denial of licensure or determined to be ineligible for licensure through the IMLC or termination of a license issued through the IMLC.**

**9.17(1) Preliminary notice of denial.** Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

**9.17(2) Appeal procedure.** An applicant who has received a preliminary notice of licensure denial or a Letter of Qualification that asserts the board has determined that the applicant is ineligible for licensure through the IMLC, or a notice that a medical license is ineligible for renewal through the IMLC, may appeal and request a hearing on the issues related to the preliminary notice of licensure denial or ineligibility for licensure or licensure renewal through the IMLC by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the notice was mailed. The applicant’s current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure, or a Letter of Qualification that asserts the applicant is eligible for licensure through the IMLC, or the applicant is eligible for licensure renewal through the IMLC.

**9.17(3) Hearing.** If an applicant appeals the preliminary notice of licensure denial or a determination of ineligibility for licensure or licensure renewal through the IMLC and requests a hearing, the

hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with 653—25.30(17A).

*a.* Hearings for applicants denied licensure, or determined to be ineligible for licensure or licensure renewal through the IMLC are contested cases open to the public.

*b.* Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

*c.* Evidence supporting the denial of the license or the determination of ineligibility for licensure or licensure renewal through the IMLC may be presented by an assistant attorney general.

*d.* While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure or licensure eligibility or licensure renewal through IMLC.

*e.* The board, after a hearing on license denial, may grant or deny the application for licensure. The board shall state the reasons for its decision and may grant the license, grant the license with restrictions or deny the license. The final decision is a public record. After a hearing on ineligibility for licensure renewal through the IMLC, the board may uphold the termination of the license or allow the licensee to renew. The board shall state the reasons for its decision, which is a public record. After a hearing on a Letter of Qualification determination, the board may uphold the ineligible determination or issue a Letter of Qualification asserting the applicant is eligible for licensure through the IMLC. The board shall state the reasons for its decision, which is a public record.

*f.* Judicial review of a final order of the board denying licensure, issuing a license with restrictions, terminating a license not eligible for renewal through the IMLC, or upholding a Letter of Qualification asserting that an applicant is ineligible for licensure through the IMLC may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

**9.17(4) Finality.** If an applicant does not appeal a preliminary notice of denial in accordance with 9.17(2), the preliminary notice of denial automatically becomes final. A final denial of an application for licensure is a public record.

**9.17(5) Failure to pursue appeal.** If an applicant appeals a preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, in accordance with 9.17(2), but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and that the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC becomes final. A final decision under this rule is a public record.

[ARC 7756B, IAB 5/6/09, effective 6/10/09; ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.18(17A,147,148,272C) Waiver requests.** Waiver requests shall be submitted in conformance with 653—Chapter 3.

[ARC 8554B, IAB 3/10/10, effective 4/14/10; ARC 5600C, IAB 5/5/21, effective 6/9/21]

**653—9.19(147,148) Relinquishment of license to practice.** A person's permanent license to practice medicine and surgery, osteopathic medicine and surgery, or administrative medicine shall be deemed relinquished if the person fails to apply for renewal or reinstatement of the license within five years after its expiration.

**9.19(1)** A license shall not be reinstated, reissued, or restored once it is relinquished. The person may apply for a new license pursuant to Iowa Code sections 148.3 and 148.11 and 653—Chapters 9 and 10.

**9.19(2)** The relinquishment of license may be stayed if, at the date of relinquishment, there is an active:

- a. Evaluation order pursuant to Iowa Code section 272C.9(1) and rule 653—24.4(272);
  - b. Combined statement of charges and settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.3(17A);
  - c. Statement of charges pursuant to Iowa Code section 17A.12(2) and rule 653—25.4(17A);
  - d. Settlement agreement pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and rule 653—25.17(272C);
  - e. Final decision pursuant to Iowa Code sections 17A.12 and 272C.6 and rule 653—25.24(17A);
- or
- f. Application for reinstatement of the license pursuant to rule 653—9.15(147,148) or 653—9.16(147,148).

[ARC 2346C, IAB 1/6/16, effective 2/10/16]

**653—9.20(147,148) Administrative medicine licensure.**

**9.20(1) Application.** An application for an administrative medicine license shall be made to the board of medicine pursuant to the requirements established in Iowa Code section 148.3 and this chapter. An applicant for an administrative medicine license shall be subject to all of the permanent licensure requirements established in Iowa Code section 148.3 and this chapter, except that the applicant shall not be required to demonstrate that the applicant has engaged in active clinical practice in the past three years as outlined in paragraphs 9.8(7) “c” and 9.15(2) “d.”

The board may, in its discretion, issue an administrative medicine license authorizing the licensee to practice administrative medicine only, as defined by this rule. The license shall be designated “administrative medicine license.”

**9.20(2) Fees.** All license and renewal fees shall be paid to the board in accordance with 653—Chapters 8 and 9.

**9.20(3) Demonstration of competence.**

a. If an applicant for initial licensure or reinstatement of an administrative medicine license has not actively practiced administrative or clinical medicine in a jurisdiction of the United States or Canada in the past three years, the board may require the applicant to demonstrate competence in a method prescribed by the board in accordance with paragraphs 9.8(7) “c” and 9.15(2) “d.”

b. A physician who holds an administrative medicine license and has not engaged in active clinical practice in a jurisdiction of the United States or Canada for more than three years may be required to demonstrate competence to practice clinical medicine in a method prescribed by the board in accordance with paragraphs 9.8(7) “c” and 9.15(2) “d” prior to obtaining a permanent Iowa medical license.

**9.20(4) No exemptions to laws and rules.** A physician with an administrative medicine license shall be subject to the same laws and rules governing the practice of medicine as a person holding a permanent Iowa medical license.

**9.20(5) Only one active license at a time.** When applicable, a person’s active Iowa permanent or Iowa resident license shall immediately become inactive upon issuance of an administrative license.

**9.20(6) Interstate medical licensure compact.** A physician who holds only an administrative medicine license may not be eligible for licensure under the interstate medical licensure compact.

[ARC 2523C, IAB 5/11/16, effective 6/15/16; ARC 3587C, IAB 1/17/18, effective 2/21/18]

**653—9.21(147,147B,148) Licensure through IMLC.**

**9.21(1) Requirements for seeking a Letter of Qualification from the Iowa board of medicine.** An applicant shall meet all of the following requirements:

a. Designate Iowa as state of principal license. To designate Iowa as state of principal license, the physician must possess a full, unrestricted, permanent Iowa medical license and meet one of the following requirements at the time the application for a Letter of Qualification is reviewed by board staff:

- (1) Iowa is the physician’s primary residence, or
- (2) At least 25 percent of the physician’s medical practice occurs in Iowa, or



(3) The physician's employer is located in Iowa, or  
(4) If the applicant does not meet any of the requirements under (1), (2), or (3), the applicant can designate Iowa as the state of principal license if Iowa is the applicant's state of residence for the purposes of federal income tax.

*b.* Provide evidence of the following qualifications:

(1) Graduation from a medical school accredited by the LCME, COCA, or a medical school listed in the International Medical Education Directory or its equivalent.

(2) Passage of each component of the USMLE or the COMLEX within three attempts, or any of its predecessor examinations accepted by the board as an equivalent examination for licensure purposes as prescribed in rule 653—9.7(147,148).

(3) Successful completion of graduate medical education approved by the ACGME or the AOA. "Successful completion" means participation in an ACGME or AOA postgraduate training program that achieves ABMS or AOA board eligibility status. A one-year transitional internship or a one-year rotating internship does not qualify as graduate medical education required in Iowa Code section 147B.1(2)"k"(3) and IMLC Section 5.4(1)"c."

(4) Hold specialty certification or a time-unlimited specialty certificate recognized by the ABMS or the AOA. The specialty certification or a time-unlimited specialty certificate does not have to be maintained once a physician is determined to be eligible for licensure through the IMLC.

(5) Has never been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any criminal offense by a court of appropriate jurisdiction.

(6) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(7) Has never had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration (DEA).

(8) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

**9.21(2) Application.** A physician seeking licensure through the IMLC who is qualified to designate Iowa as state of principal license shall file an application for a Letter of Qualification with the interstate commission at [www.imlcc.org](http://www.imlcc.org). The application shall require the following:

*a.* Payment of a nonrefundable service fee to the interstate commission for an application for a Letter of Qualification. This service fee includes the cost for the 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) as specified in 653—subrule 8.3(1); and

*b.* Completion and submission of forms provided by the board, including required core credentials, documents, a completed fingerprint packet and the criminal history background checks by the DCI and the FBI, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

**9.21(3) Letter of Qualification.**

*a.* After receipt of all application materials, the board shall:

(1) Evaluate the applicant's eligibility for licensure through the IMLC by primary source verification of medical education, graduate medical education, licensing examination results, and other qualifications as determined by IMLC rule;

(2) Perform a criminal background check; and

(3) Issue a Letter of Qualification to the applicant verifying or denying the applicant's eligibility.

The applicant may appeal a determination of eligibility to the Iowa board of medicine within 30 days of issuance of the Letter of Qualification according to the processes outlined in rule 653—9.17(147,148).

b. The Letter of Qualification is valid for a period of 365 days from its date of issuance to request licensure in a member state. During this period, the physician must maintain eligibility to claim Iowa as the state of principal license or designate a new state of principal license.

**9.21(4) Expedited licensure.** Physicians who have a valid Letter of Qualification may obtain licensure in Iowa through the IMLC. To obtain a permanent Iowa license through the IMLC, a qualified physician shall:

- a. Complete the application process at the IMLC's website, [www.imlcc.org](http://www.imlcc.org).
- b. Pay the licensure fee specified in 653—subrule 8.3(2) and any service fees that are required by the IMLC.
- c. Comply with the continuing medical education requirements of the board, including mandatory trainings specified in 653—Chapter 11.

**9.21(5) Validity of a license issued through the IMLC.** A license issued through the IMLC is valid for a period consistent with other permanent licenses issued by the board. An Iowa license issued through the IMLC shall be deemed terminated if the licensee fails to maintain a state of principal license.

**9.21(6) Disciplinary actions against licenses issued through the IMLC.**

a. Physicians holding an Iowa license issued through the IMLC are subject to the laws and rules governing the practice of medicine in Iowa.

b. Any disciplinary action taken by another member board of the IMLC against a physician licensed through IMLC shall be deemed unprofessional conduct which may be subject to discipline by the board in addition to any other violation of the board's rules deemed appropriate by the board.

c. If a license issued through the IMLC to a physician is revoked, surrendered, or relinquished in lieu of discipline, or suspended by a member board of the IMLC, then the physician's Iowa expedited license is automatically and immediately suspended, without further action needed, for a period of 90 days upon entry of an order by the board. The 90-day suspension may be terminated early by the board.

d. Any disciplinary action taken by another member board not in the state of principal license may be deemed conclusive as to the matter of law and fact decided, and the board may either impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the board's laws and rules or pursue separate disciplinary action against the physician pursuant to the board's laws and rules.

e. If the Iowa board, as the physician's state of principal license, revokes or suspends the physician's license, or accepts a license surrender in lieu of discipline, then all licenses issued to the physician through the IMLC shall automatically be placed, without further action necessary by any member board, on the same status. If the Iowa board subsequently reinstates the physician's license, the licenses issued by the other member boards shall remain encumbered until the member boards take action to reinstate the licenses.

**9.21(7) Renewal of license issued through the IMLC.** To be eligible for renewal of a license issued through the IMLC, a licensee shall:

- a. Complete an online renewal application on a form provided by the IMLC at [www.imlcc.org](http://www.imlcc.org).
- b. Complete an attestation that the licensee:
  - (1) Maintains eligibility to designate a state as the state of principal license, pursuant to paragraph 9.21(1) "a";
  - (2) Maintains a full and unrestricted license in the designated state of principal license;
  - (3) Has not been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
  - (4) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;
  - (5) Has not had a controlled substance license or permit suspended or revoked by a state or the U.S. DEA.
- c. Pay licensure fee for the renewal of a license issued through the IMLC and pay any service fee assessed by the IMLC.

d. If audited, submit verification of completion of continuing medical education requirements set forth in 653—Chapter 11.

**9.21(8) Waivers.** The laws and rules relating to the IMLC cannot be waived.

**9.21(9) Advisory opinions.** The board will recognize advisory opinions issued by the interstate commission on the meaning or interpretation of the IMLC, its bylaws, rules and actions when determining an applicant's eligibility for licensure through the IMLC.

[ARC 3587C, IAB 1/17/18, effective 2/21/18]

These rules are intended to implement Iowa Code chapters 17A, 147, 147B, 148, and 272C.

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<sup>◊</sup> Two or more ARCs



CHAPTER 18  
MILITARY SERVICE AND VETERAN RECIPROCITY

**653—18.1(272C) Definitions.** As used in this chapter:

“*License*” means a license issued by the board, including a permanent medical license, resident physician license, special physician license, temporary physician license or licensed acupuncturist license.

“*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 who is requesting credit toward licensure that is subject to the jurisdiction of the board for military education, training, or service obtained or completed in military service including, but not limited to, a medical physician or surgeon, osteopathic physician or surgeon, or licensed acupuncturist.

“*Spouse*” means the spouse of an active duty member of the military forces of the United States.

“*Temporary license*” means a temporary license issued pursuant to rule 653—10.5(147,148).

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2). [ARC 1804C, IAB 12/24/14, effective 1/28/15; ARC 4980C, IAB 3/11/20, effective 4/15/20; ARC 7074C, IAB 9/20/23, effective 10/25/23]

**653—18.2(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.

**18.2(1)** The completed military service application may be submitted with an application for licensure or examination or prior to an applicant’s applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

**18.2(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.

**18.2(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).

**18.2(4)** The applicant shall fully comply with all other requirements necessary for licensure in Iowa pursuant to 653—Chapter 9.

**18.2(5)** 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.

**18.2(6)** The board shall grant 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.

**18.2(7)** 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.

**18.2(8)** 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. There shall be no fees or costs assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**18.2(9)** 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 application be placed on pending status. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.  
[ARC 1804C, IAB 12/24/14, effective 1/28/15]

**653—18.3(272C) Veteran and spouse reciprocity.**

**18.3(1)** A veteran or spouse with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran or spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by an applicant under this subrule shall be given priority and shall be expedited.

**18.3(2)** An application for licensure by reciprocity 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. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or as a spouse.

**18.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the scope of practice in the jurisdiction where the veteran or spouse is licensed is 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.

**18.3(4)** The board shall promptly grant a license to the applicant if the applicant is licensed in the same or similar profession in another jurisdiction whose scope of practice is substantially equivalent to the scope of practice in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or malpractice history or criminal background.

**18.3(5)** If the board determines that the scope of practice in the jurisdiction in which the applicant is licensed is not substantially equivalent to the scope of practice in Iowa, the board shall promptly inform the applicant of the additional education or training required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or malpractice history or criminal background, the following shall apply:

*a.* If the applicant has not passed the required examination(s) for licensure, the applicant may not be issued a temporary license but may request that the application be placed in pending status.

*b.* If additional education or training is required, the applicant may request that the board issue a temporary license for a specified period of time during which the applicant will successfully complete the necessary education or training. The board shall issue a temporary 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 temporary license is granted.

*c.* If a request for a temporary 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 temporary license.

*d.* If a temporary license is issued, the application for full licensure shall be placed in pending status until the necessary education or training has been successfully completed or the temporary license expires, whichever occurs first. The board may extend a temporary license on a case-by-case basis for good cause.

**18.3(6)** An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a temporary license or is aggrieved by the terms under which a temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by video conferencing. A request for a contested case shall be made within 30 days of issuance of the

board's decision. There shall be no fees or costs assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

[ARC 1804C, IAB 12/24/14, effective 1/28/15; ARC 4980C, IAB 3/11/20, effective 4/15/20; ARC 7074C, IAB 9/20/23, effective 10/25/23]

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