

BEFORE THE PHARMACY BOARD OF THE STATE OF IOWA

<p>In the Matter of the Petition for Waiver by:</p> <p>Hy-Vee Clinic Pharmacy 1376 License #: 1480</p> <p>Petitioner.</p>	<p>ORDER GRANTING WAIVER REQUEST</p>
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Pursuant to Iowa Code section 17A.9A and 481 Iowa Administrative Code (“IAC”) 6, the Iowa Board of Pharmacy (“Board”) makes the following ruling on the Petition for Waiver submitted by Hy-Vee Clinic Pharmacy (“Petitioner”).

FINDINGS OF FACT

1. Petitioner has an Iowa limited use pharmacy-telepharmacy license number 1480 that is current and will next expire on December 31, 2025.
2. Petitioner states in their Petition for Waiver that they seek to waive 481 IAC 552.18(5), which states:
 - a. Conversion to general pharmacy. If the average number of prescriptions dispensed per day, calculated as the average number of prescriptions dispensed per day over the previous 90-day period, exceeds 150 prescriptions, the telepharmacy site will provide on-site pharmacist staffing 100 percent of the time the telepharmacy is open for business and will, within 30 days, submit an application for licensure as a general pharmacy
3. Petitioner is requesting to waive the requirement of having an on-site pharmacist for the telepharmacy because they exceed 150 prescriptions dispensed per day over the previous 90-day period.
4. Petitioner is specifically requesting to renew their current waiver that will expire on January 1, 2026 and extend the waiver for five years.
5. The Board considered the Petition for Waiver at a board meeting on November 5, 2025.

APPLICABLE LAW

6. Pursuant to Iowa Administrative Code chapter 481—6.1(3), the Board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

- a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
 - b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
 - c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and
 - d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.
7. “The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.” 481 IAC 6.1(8)(b).
8. The Board's rules provide “The final decision on whether the circumstances justify the granting of a waiver is at the discretion of the department upon consideration of all relevant factors. Each petition for a waiver will be evaluated by the department based on the unique, individual circumstances set out in the petition.” 481 IAC 6.1(8)(a).
9. “A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.” 481 IAC 6.1(8)(f).

ANALYSIS OF WAIVER CRITERIA

Whether the application of the rule would create an undue hardship on the person for whom the waiver is requested:

- 10. Application of the rule (i.e. requiring Petitioner to obtain an on-site pharmacist staffing 100% of the time) would create an undue hardship on Petitioner as they do not have the staffing to ensure an on-site pharmacist 100% of the time and they do not exceed the 150 prescriptions per day often enough for it to be necessary.

Whether the waiver from the requirements of the rule in the specific case would prejudice the substantial legal rights of any person:

- 11. Waiving the requirements of the rule would not prejudice the substantial legal rights of any person.

Whether the provision of the rule subject to the petition for waiver is not specifically mandated by another provision of law:

- 12. The requirement found in the Board’s administrative rule is not specifically mandated by statute.

Whether substantially equal protection of the public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested:

13. The public health, safety, and welfare will be afforded by other means if this waiver is granted at this time.

CONCLUSIONS OF LAW

For the reasons set forth above and upon review of the Petition, the Board finds that Petitioner has satisfied the four criteria for waiver set forth in 481 IAC 6.1(3).

ORDER

IT IS THEREFORE ORDERED the Petition for Waiver of 481 Iowa Administrative Code chapter 552.18(5) is GRANTED to renew and extend Petitioner's waiver for TWO (2) YEARS and to permit up to 200 prescriptions daily on average.

Issued November 5, 2025.



Erik Maki, PharmD
Chairperson
Iowa Board of Pharmacy

Copy to:
Katrina Phillip
Assistant Attorney General
Iowa Department of Justice
Office of the Iowa Attorney General
1305 E. Walnut Street, 2nd Floor
Des Moines, Iowa 50309
katrina.phillip@ag.iowa.gov

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-0233. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).