

657—8.35(155A) Pharmacy license. A pharmacy license issued by the board is required for all sites where prescription drugs are offered for sale or dispensed under the supervision of a pharmacist. The current pharmacy license certificate shall be displayed in a position visible to the public. The board may issue any of the following types of pharmacy licenses: a general pharmacy license, a hospital pharmacy license, a limited use pharmacy license, or a nonresident pharmacy license. Nonresident pharmacy license applicants shall comply with board rules regarding nonresident pharmacy practice except when a waiver has been granted. Applicants for general or hospital pharmacy practice shall comply with board rules regarding general or hospital pharmacy practice except when a waiver has been granted. Any pharmacy that dispenses controlled substances to Iowa residents must also register pursuant to 657—Chapter 10.

8.35(1) Limited use pharmacy license. A limited use pharmacy license may be issued for nuclear pharmacy practice, correctional facility pharmacy practice, veterinary pharmacy practice, telepharmacy practice, and other limited use practice settings. Applications for a limited use pharmacy license shall be considered on a case-by-case basis.

8.35(2) Application. Applicants for initial licensure, license renewal, license reactivation, or license changes pursuant to subrule 8.35(6) shall complete the relevant pharmacy license application and shall include all required information and attachments. All pharmacy license applications require submission of a nonrefundable \$135 license fee plus applicable penalty fees. The application shall include the signature of the pharmacy owner's authorized representative and shall require at a minimum the following:

- a. Disclosure of pharmacy ownership information, including information about the pharmacy's registered agent;
- b. Identification and signature of the pharmacist in charge;
- c. The identification of and average number of hours worked by all pharmacists, pharmacist-interns, pharmacy technicians, and pharmacy support persons working in the pharmacy;
- d. Criminal and disciplinary history information;
- e. Description of the scope of services provided by the pharmacy; and
- f. If the pharmacy is located outside of Iowa, identification of a registered agent located in Iowa.

8.35(3) License renewal. A pharmacy license shall be renewed before January 1 of each year. An initial pharmacy license issued between November 1 and December 31 shall not require renewal until the following calendar year. The nonrefundable fee for a timely license renewal shall be \$135.

a. *Delinquent license grace period.* A pharmacy license renewal application that is postmarked or hand-delivered to the board after January 1 but prior to February 1 following expiration shall be considered delinquent and shall require the nonrefundable payment of the renewal fee plus a penalty fee of \$135. A pharmacy that submits a completed license renewal application, application fee, and penalty fee postmarked or delivered to the board office by January 31 shall not be subject to disciplinary action for continuing to operate in the month of January.

b. *Delinquent license reactivation beyond grace period.* If a pharmacy license is not renewed prior to the expiration of the one-month grace period identified in paragraph 8.35(3) "a," the pharmacy may not operate or provide pharmacy services to patients in the state of Iowa until the license is reactivated. A pharmacy without a current license may apply for license reactivation by submitting an application for reactivation and a nonrefundable \$540 reactivation fee. As part of the reactivation application, the pharmacy shall disclose the prescriptions dispensed and the services, if any, that were provided to Iowa patients while the license was delinquent. A pharmacy that continues to operate or provide pharmacy services in Iowa without a current license may be subject to disciplinary sanctions.

8.35(4) Inspection of pharmacy location.

a. A new pharmacy location in Iowa shall require an on-site inspection by an authorized agent of the board. Application for a pharmacy license and other required registrations shall be submitted to the board at least 14 days prior to the anticipated inspection. Any deficiencies identified during the inspection shall be corrected and verified by an authorized agent of the board prior to the issuance of the pharmacy license. Prescription drugs, including controlled substances, may not be delivered to a new pharmacy location prior to the delivery of the pharmacy license and registration certificates.

b. A pharmacy location in Iowa which is applying for a different license type than previously held may be subject to an inspection prior to the issuance of the new license.

8.35(5) Failure to complete licensure. An application for a pharmacy license, including any other required registration applications, will become null and void if the applicant fails to complete the licensure process within six months of acceptance by the board of the required applications. The licensure process shall be complete upon the pharmacy's opening for business at the licensed location following a satisfactory inspection by an agent of the board pursuant to this rule. When an applicant fails to timely complete the licensure process, fees submitted with applications will not be transferred or refunded. If the applicant intends to proceed with a pharmacy license, a new application and fee shall be required.

8.35(6) Pharmacy license changes. When a pharmacy changes its name, location, ownership, pharmacist in charge, or license type, a completed pharmacy license application with a nonrefundable \$135 fee shall be submitted to the board pursuant to subrule 8.35(2). Upon receipt of the completed application and fee, the board shall issue an updated pharmacy license certificate, pending any necessary inspection pursuant to paragraph 8.35(4) "b," unless the board identifies any ground for denial of the license. Any restrictions or disciplinary history associated with the previous pharmacy shall remain unchanged. A pharmacy wishing to disassociate itself from the previously licensed pharmacy restrictions or disciplinary history may petition the board for such disassociation. The burden is on the pharmacy to demonstrate that the current pharmacy is not associated with or responsible for the pharmacy as it previously existed. The old license certificate shall be returned to the board within ten days of receiving the updated license certificate.

a. Name. A change of the name under which the pharmacy is doing business shall require submission of a pharmacy license application and appropriate fee prior to the change of name.

b. Location. Except as provided in subrule 8.35(10) for a temporary relocation due to an exceptional circumstance, a change of pharmacy location shall require submission of a pharmacy license application and appropriate fee prior to the change of location. A pharmacy undergoing a change in location is required to notify patients of the change in accordance with paragraph 8.35(7) "d." A change of pharmacy location in Iowa may require an on-site inspection of the new location as provided in subrule 8.35(4).

c. Ownership. A change in ownership of a pharmacy shall require submission of a pharmacy license application and appropriate fee prior to the change in ownership. A change of ownership occurs when the owner listed on the pharmacy's most recent application changes. A pharmacy undergoing a change in ownership is required to notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7). A change of ownership effectively consists of closing a pharmacy and opening a new pharmacy.

d. Pharmacist in charge. In addition to the requirements of this paragraph, a change of pharmacist in charge for a nonresident pharmacy shall require registration of the new permanent pharmacist in charge if the pharmacist in charge is not currently registered by the board or licensed to practice pharmacy in Iowa.

(1) If a permanent pharmacist in charge has been identified by the time of the vacancy, a pharmacy license application identifying the new pharmacist in charge, along with the appropriate fee, shall be submitted to the board within ten days of the change.

(2) If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary pharmacist in charge shall be submitted to the board within ten days of the vacancy.

(3) If a permanent pharmacist in charge was not identified within ten days of the vacancy, the pharmacy shall, within 90 days of the vacancy, identify a permanent pharmacist in charge. A pharmacy license application identifying the permanent pharmacist in charge, along with appropriate fee, shall be submitted to the board within ten days of the appointment of a permanent pharmacist in charge. The pharmacy license application and the pharmacist in charge registration application, if needed, including appropriate fees, shall be received by the board within 90 days of the original vacancy of the permanent pharmacist in charge position.

(4) If a permanent pharmacist in charge is out of the pharmacy for an extended leave of absence of no more than 120 days, the pharmacy may identify an interim pharmacist in charge and provide notice of such to the board on forms provided by the board. Identification of an interim pharmacist in charge shall not require submission of a new pharmacy license application and shall not result in a permanent change in pharmacist in charge on the pharmacy license. If a permanent pharmacist in charge is out of the pharmacy for an extended leave of absence greater than 120 days, the pharmacy shall initiate a change of pharmacist in charge in accordance with this rule.

e. License type. A change in pharmacy license type shall require submission of a pharmacy license application and appropriate fee prior to the change in license type. A pharmacy changing license type shall notify the pharmacist in charge and patients of the change in accordance with subrule 8.35(7).

f. License change application submission. An application for license change shall be timely submitted pursuant to this subrule. A licensed pharmacy that has timely submitted an application for license change and fee may continue to service Iowa patients while the license change is pending final approval. An applicant who has submitted an application for license change after the required date of submission pursuant to this subrule but within 30 days of the required date of submission shall be assessed a nonrefundable late penalty fee of \$135 in addition to the license fee. An applicant who has submitted an application for license change 31 days or later following the required date of submission pursuant to this subrule shall be assessed a nonrefundable late penalty fee of \$540.

8.35(7) Closing or sale of a pharmacy. A closing pharmacy shall ensure that all pharmacy records are transferred to another licensed pharmacy that agrees to act as custodian of the records for at least two years. A pharmacy shall not execute a sale or closing of a pharmacy unless there exists an adequate period of time prior to the pharmacy's closing for delivery of the notifications to the pharmacist in charge, the board, the DEA, and pharmacy patients as required by this subrule. The executive director may exempt a pharmacy from one or more of the notification requirements in the event of an unforeseeable closure.

a. Pharmacist in charge notification. At least 40 days prior to the effective date of the sale or closing of a pharmacy, the pharmacist in charge of the closing pharmacy shall be notified of the proposed sale or closing. Information regarding the pending sale or closure of the pharmacy may be kept confidential until public notifications, which are required 30 days prior to the pharmacy's closing, are made. The pharmacist in charge of the closing pharmacy shall provide input and direction to the pharmacy owner regarding the responsibilities of the closing pharmacy, including the notifications, deadlines, and timelines established by this subrule. The pharmacist in charge of the purchasing or receiving pharmacy shall be notified of the pending transaction at least 30 days prior to the sale or closure of the pharmacy.

b. Board and DEA notifications. At least 30 days prior to the closing of a pharmacy, a written notice shall be sent to the board. Notification to the DEA shall be pursuant to federal regulation. Notification to the board shall include:

- (1) The anticipated date of closing or transfer of prescription drugs or records.
- (2) The name, address, DEA registration number, Iowa pharmacy license number, and Iowa controlled substances Act (CSA) registration number of the closing pharmacy and of the pharmacy to which prescription drugs will be transferred.
- (3) The name, address, DEA registration number, Iowa pharmacy license number, and CSA registration number of the location at which records will be maintained.

c. Terms of sale or purchase. If the closing is due to the sale of the pharmacy, a copy of the sale or purchase agreement, not including information regarding the monetary terms of the transaction, shall be submitted to the board upon the request of the board. The agreement shall include a written assurance from the closing pharmacy to the purchasing pharmacy that the closing pharmacy has given or will be giving notice to its patients as required by this subrule.

d. Patient notification. At least 30 days prior to closing, a closing pharmacy shall make a reasonable effort to notify all patients who had a prescription filled by the closing pharmacy within the last 18 months that the pharmacy intends to close, including the anticipated closing date.

(1) Written notification shall identify the pharmacy that will be receiving the patient's records. The notification shall advise patients that all patient records will be transferred to the identified pharmacy and that patients may contact the closing pharmacy to request the transfer of remaining refills to a pharmacy of the patient's choice. The notification shall also advise patients that after the date of closing, patients may contact the pharmacy to which the records have been transferred.

(2) Written notification shall be delivered to each patient at the patient's last address on file with the closing pharmacy by direct mail or personal delivery. A pharmacy shall not be required to provide written notice to more than one patient within the same household.

(3) Public notice shall be provided in a location and manner clearly visible to patients in the pharmacy pickup locations including drive-through prescription pickup lanes, on pharmacy or retail store entry and exit doors, and at pharmacy prescription counters.

e. Patient communication by receiving pharmacy. A pharmacy receiving the patient records of another pharmacy shall not contact the patients of the closing pharmacy until after the transfer of those patient records from the closing pharmacy to the receiving pharmacy and after the closure of the closing pharmacy.

f. Prescription drug inventory. A complete inventory of all prescription drugs being transferred shall be taken as of the close of business. The inventory shall serve as the ending inventory for the closing pharmacy as well as a record of additional or starting inventory for the pharmacy to which the drugs are transferred. A copy of the inventory shall be maintained in the records of the purchasing pharmacy for at least two years.

(1) DEA Form 222 is required for transfer of Schedule II controlled substances.

(2) The inventory of controlled substances shall be completed pursuant to the requirements in rule 657—10.19(124).

(3) The inventory of all noncontrolled prescription drugs shall include the name, strength, dosage form, and quantity, which may be estimated.

(4) Controlled substances and prescription drugs requiring destruction or other disposal shall be transferred in the same manner as all other drugs. The new owner is responsible for the disposal of these drugs.

g. Return of certificates and forms. The pharmacy license certificate and CSA registration certificate of the closing or selling pharmacy shall be returned to the board within ten days of closing or sale. The pharmacy shall be responsible for complying with federal DEA regulations for the cancellation and return of DEA forms and certificates.

h. Signs at closed pharmacy location. A location that no longer houses a licensed pharmacy shall not display any sign, placard, or other notification, visible to the public, which identifies the location as a pharmacy. A sign or other public notification that cannot feasibly be removed shall be covered so as to conceal the identification as a pharmacy. Nothing in this paragraph shall prohibit the display of a public notice to patients, as required in paragraph 8.35(7) "d," for a reasonable period not to exceed six months following the pharmacy's closing.

8.35(8) Reporting discipline and criminal convictions. A pharmacy shall, no later than 30 days after the final action, provide written notice to the board of any discipline imposed by any licensing authority on any license or registration held by the pharmacy. Discipline may include, but is not limited to, fine or civil penalty, citation or reprimand, probationary period, suspension, revocation, or voluntary surrender. A pharmacy shall, no later than 30 days after a conviction, provide written notice to the board of any criminal conviction of the pharmacy or of any pharmacy owner when that conviction is related to prescription drugs or to the operation of the pharmacy. The term criminal conviction includes instances when the judgment of conviction or sentence is deferred.

8.35(9) License verification fee. The board may require a nonrefundable fee of \$15 for completion of a request for written license verification of any pharmacy license.

8.35(10) Emergency temporary location changes. In response to a proclamation of disaster emergency or in the event of a natural or man-made disaster, fire, or other occurrence which results in sufficient damage to a pharmacy location as to render it unsafe to operate, a pharmacy may relocate to a temporary or mobile location only as provided herein.

a. Within one business day of the damage to the pharmacy rendering it unsafe, the pharmacy shall provide notice to the board of its intent to temporarily relocate pharmacy operations and provide the address of the temporary or mobile location.

b. A board compliance officer shall conduct an on-site inspection of the temporary or mobile location within five business days of the relocation.

c. A pharmacy may operate from the temporary or mobile location for no more than six months. If the pharmacy is not able to return to the original location within six months, the pharmacy shall submit an application and fee pursuant to paragraph 8.35(6) “*b*” prior to the expiration of the six-month temporary relocation period.

d. A pharmacy shall notify the board of its intent to return pharmacy operations to the original location at least five business days in advance of its return.

e. A board compliance officer shall conduct an on-site inspection of the original location prior to the return of pharmacy operations.

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9526B**, IAB 6/1/11, effective 7/6/11 (See Delay note at end of chapter); **ARC 9693B**, IAB 9/7/11, effective 8/11/11; **ARC 0504C**, IAB 12/12/12, effective 1/16/13; **ARC 1962C**, IAB 4/15/15, effective 5/20/15; **ARC 3236C**, IAB 8/2/17, effective 9/6/17; **ARC 3345C**, IAB 9/27/17, effective 11/1/17; **ARC 3858C**, IAB 6/20/18, effective 7/25/18; **ARC 4268C**, IAB 1/30/19, effective 3/6/19; **ARC 5007C**, IAB 3/25/20, effective 4/29/20; **ARC 6073C**, IAB 12/15/21, effective 1/19/22; **ARC 6417C**, IAB 7/27/22, effective 8/31/22]