

657 IAC Chapter IMPAIRED PHARMACY PROFESSIONAL AND TECHNICIAN RECOVERY PROGRAM

657—30.1(155A) Definitions.

For the purpose of this chapter, the following definitions shall apply:

“*Association*” means a professional pharmaceutical organization, association, or society whose membership consists of pharmacy professionals or pharmacy technicians.

“*Board*” means the Iowa board of pharmacy examiners.

“*Impairment*” means the inability of a pharmacy professional to practice pharmacy or of a pharmacy technician to perform related technical functions with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

“*Impairment program*”, “*recovery program*”, or “*program*” means an impaired pharmacy professional and technician recovery program established to aid the recovery of impaired pharmacists, pharmacist-interns, or pharmacy technicians.

“*Pharmacy professional*” or “*professional*” means an Iowa-licensed pharmacist or an Iowa-registered pharmacist-intern.

“*Pharmacy technician*” or “*technician*” means an Iowa-registered pharmacy technician.

“*Program committee*” or “*committee*” means an impairment program provider, which may be a peer review committee or a committee of a professional pharmaceutical association or society, which has contracted with the board to provide an impairment program for the assistance of impaired Iowa pharmacy professionals and technicians.

“*Recovery contract*” means the written document establishing the terms for an individual professional’s or technician’s participation in the recovery program.

“*Self-report*” means the written, electronic, or oral notification to the board or a program provider by the professional or technician, prior to the board’s receipt of a complaint or report from a second party, that the professional or technician has been or may be diagnosed as having an impairment. A report may be completely self-motivated or may be the result of an interaction with or intervention by another individual and may include acts of poor judgment that need not indicate an impairment or addiction problem but that create a need for medical review and evaluation by appropriate persons. “*Self-report*” includes those situations where the professional or technician reports diversion or misappropriation of a prescription drug or device for the individual’s personal use without proper medical authorization.

657—30.2(155A) Purpose, function, and responsibilities.

The board is entrusted with the responsibility to protect the public health and safety through the effective regulation of professionals and technicians engaged in the practice of pharmacy in Iowa. The impaired pharmacy professional and technician recovery program is established to evaluate, assist, and monitor the recovery or rehabilitation of professionals and technicians whose alcohol or chemical dependency or mental or physical disability is potentially threatening to the individual, to the public safety, or to the performance of the individual's duties.

30.2(1) Assistance to professionals or technicians. The program assists impaired professionals and technicians in obtaining evaluation, treatment, aftercare, and support from the profession needed to maintain personal and professional integrity.

30.2(2) Assistance to the board. The program assists the board in monitoring the activities and professional conduct of impaired professionals and technicians to maintain their integrity and professional standing within the profession of pharmacy.

657—30.3(155A) Program committee and personnel; confidentiality; liability.

Activities of program personnel shall be coordinated through the program committee. The committee shall include, but need not be limited to, the following members:

1. One currently licensed Iowa pharmacist;
2. One representative from Drake University College of Pharmacy and Health Sciences;
3. One representative from the University of Iowa College of Pharmacy;
4. One recovery professional;
5. The executive secretary/director of the board or the director's designee;
6. One representative from the program provider.

30.3(1) Committee meetings. The program committee shall convene no less than semiannually. All meetings of the program committee shall be closed to the public.

30.3(2) Proceedings and records confidential. Records and proceedings of the committee and program personnel reports shall be privileged and confidential, shall not be considered public or open records, and shall not be subject to a subpoena or to a discovery proceeding. Such records and proceedings shall not be disclosed unless the affected professional or technician so requests or as otherwise provided in rule 30.7(155A).

30.3(3) Immunity from civil liability. An employee or a member of the board, a committee member, an association or peer review committee, a district or local intervenor, advocate, or monitor, or any other person who furnishes information, data, reports, or records in good faith for the purpose of aiding the impaired professional or technician shall be immune from civil liability. Such person is presumed to have acted in good faith, and any person alleging a lack of good faith has the burden of proof on that issue.

30.3(4) Program security. A program provider shall take appropriate steps and shall implement procedures sufficient to ensure the confidentiality of records in the possession of the provider's personnel and the committee. Such security procedures shall include limiting to essential identified personnel access to confidential program information, data, and personally identifiable records.

657—30.4(155A) Identification and referral of impaired professionals and technicians.

A professional or technician may self-report an impairment by contacting the board or a program provider. A pharmaceutical peer review committee, a committee of an association, a member of the staff of a college of pharmacy, or any other concerned party may contact a program provider or the board if the reporting person or committee has knowledge that, in the opinion of the reporter, might affect the professional's or technician's competency due to impairment, or that might endanger the public health and safety or the safety of the subject, or that provides grounds for disciplinary action.

30.4(1) Board referral of self-reporting professional or technician. The board may refer a self-reporting professional or technician to the committee for evaluation and assistance. The board shall not disclose to the public the identity of a self-reporting professional or technician or any information regarding the individual's impairment if:

- a. The individual was not involved in the distribution of controlled substances or legend drugs to other individuals, and
- b. The individual agrees to participate in the impairment program, including executing a recovery contract and abiding by the terms of that contract.

30.4(2) Board referral of other impaired professionals or technicians. The board may refer to the committee any professional or technician the board has determined to be in need of assistance or support in recovering from the professional's or technician's addiction or impairment. A referral to the committee may be included in the terms of a board order resulting from a contested case hearing, in the terms of a settlement agreement between the board and the professional or technician, or it may be a recommendation of the board to the professional or technician.

657—30.5(155A) Recovery contract requirements.

An impaired professional or technician participating in an impairment program shall execute and abide by the terms of a recovery contract with the program committee. Such recovery contract shall identify the requirements and responsibilities of the parties to the contract.

30.5(1) Duration. The recovery contract shall specify the length of time the professional or technician shall participate in the program.

30.5(2) Noncompliance. The recovery contract shall identify acts and omissions that shall constitute noncompliance with the terms of the contract and shall include the resultant actions of the committee in the event of such noncompliance.

30.5(3) Practice restrictions. The recovery contract shall identify restrictions, if any, placed on the professional's or technician's activities regarding the practice of pharmacy and the duration of such restrictions. If the professional or technician is prohibited from practicing pharmacy or assisting in the practice of pharmacy during any period of the recovery contract and is subsequently deemed to be competent to return to the practice of pharmacy, a "back-to-work agreement" shall be prepared and executed, and shall become an addendum to the original program recovery contract. Any restrictions placed on the professional's or technician's practice activities shall be communicated by the professional or technician to the professional's or technician's employer who shall acknowledge receipt of and agreement with those restrictions within 15 days of the execution of the recovery contract or the recovery contract addendum.

30.5(4) Monitoring provisions. The recovery contract shall provide for the monitoring and frequency of the professional's or technician's activities and progress. Monitoring may include, but is not limited to:

- a. Meetings with aftercare provider or counselor;
- b. Meetings with program advocate or monitor;
- c. Written or personal reports to the program committee;
- d. Body fluid screening and testing or alternate screening and testing measures; and
- e. Participation in addiction support group meetings such as Alcoholics Anonymous or Narcotics Anonymous.

657—30.6(155A) Program provider contract.

The board may contract with one or more associations to provide a recovery program for impaired pharmacy professionals and technicians. Programs shall include, but not be limited to, education, intervention, and post treatment monitoring. The contract shall

provide for payment by the board to the program for expenses incurred in the management and operation of the program but shall not include payment for costs incurred for a participant's evaluation, referral services, treatment, or rehabilitation. Detailed claims for program expenses shall be submitted to the executive secretary/director or director's designee not less than annually nor more frequently than monthly.

30.6(1) Annual reporting. An association contracting with the board pursuant to this rule shall annually prepare a written detailed accounting of program activities and expenditures for review by the board. This report shall detail education, intervention, and post treatment monitoring activities provided under the program.

30.6(2) Quarterly reporting. An association contracting with the board pursuant to this rule shall prepare the following reports on a quarterly basis:

a. A confidential written report to the board regarding each participant's diagnosis, prognosis, and recommendations for continuing care, treatment, and supervision. The report shall include the date of last contact and a summary of the last communication with each participant. A case number shall be used to identify each participant, and the report shall be written so as to maintain the anonymity of the participant.

b. A confidential written report to the executive secretary/director or the director's designee regarding each participant's diagnosis, prognosis, and recommendations for continuing care, treatment, and supervision. Participants shall be identified by name. Board staff access to such confidential information, data, and personally identifiable information shall be limited to essential identified personnel.

30.6(3) Notification of initial contact. An association contracting with the board pursuant to this rule shall, within 72 hours of receiving information identifying a professional or technician believed to be impaired, notify the executive secretary/director or the director's designee of the program's involvement with the individual. This notification shall identify the individual involved and, if known, the suspected impairment. Notification may be transmitted via telephone, facsimile, electronic mail, or in person.

30.6(4) Notification of noncompliance or refusal to participate. An association contracting with the board pursuant to this rule shall report to the board the name of a professional or technician who refuses to cooperate with the program, who refuses to submit to treatment, or whose impairment is not substantially alleviated through intervention and treatment. Notification shall be in writing, shall identify the individual by name, shall include information regarding the alleged impairment, and shall be submitted to the board within 14 days of knowledge by program personnel of the individual's failure or refusal to participate.

30.6(5) Notification of imminent danger. An association contracting with the board pursuant to this rule shall report, within 72 hours, the name of an impaired professional or

technician whom the committee or monitor believes to be an imminent danger to either the public or the professional or technician. Notification may be transmitted via telephone or in person.

30.6(6) Notification of illegal drug distribution to others. An association contracting with the board pursuant to this rule shall report, within 72 hours, the name of an impaired professional or technician where information regarding the professional's or technician's activities discloses known illegal distribution of controlled substances or legend drugs to other individuals. Notification may be transmitted via telephone, facsimile, electronic mail, or in person. Within 10 days of this notification, all records of the participant in the possession of the program and all information regarding the illegal drug distribution shall be delivered to the executive secretary/director or the director's designee.

30.6(7) Release of information to executive secretary/director. An association contracting with the board pursuant to this rule shall, upon request from the executive secretary/director or director's designee, release all records of a participant.

657—30.7(155A) Disclosure of information.

The board may disclose information, records, and proceedings concerning an impaired professional or technician participating in a recovery program upon the request of the affected professional or technician, as provided in this rule, or as otherwise provided by law.

30.7(1) Criminal or administrative disciplinary proceeding. The board may disclose information, records, and proceedings concerning a program participant in a disciplinary hearing before the board, in a subsequent trial or appeal of a board action or order, or in a criminal proceeding.

30.7(2) Court order. The board may disclose information, records, and proceedings concerning a program participant pursuant to an order of a court of competent jurisdiction.

30.7(3) Other jurisdictions. The board may disclose information, records, and proceedings concerning a program participant to the pharmacist licensing or disciplinary authorities of other jurisdictions or to the pharmacy technician registering, licensing, or disciplinary authorities of other jurisdictions, as appropriate.

30.7(4) Practice limitations. Nothing herein shall prohibit the board from releasing public information regarding the suspension, revocation, cancellation, restriction, or retirement of the license or registration of a participant. Public information may include limitations imposed on the participant's ability to practice pharmacy or to assist in the practice of pharmacy and other relevant information pertaining to the participant that the board deems appropriate and disclosure of which is not otherwise prohibited by law.

657—30.8(155A) Program funds.

The board shall assess a surcharge of 10 percent to a pharmacist license fee, a pharmacist license renewal fee, a pharmacist-intern registration fee, a pharmacy technician registration fee, and a pharmacy technician registration renewal fee to fund programs under this chapter. The board may also accept funds made available by the federal or state government or by another public or private source to be used for such programs. Surcharges and funds collected pursuant to this rule shall be delivered to the state treasurer, shall be deposited in a fund separate from the state general fund, and shall be used exclusively to administer programs under this chapter. Expenses that may be paid from this fund include costs associated with the provision of education, intervention, post treatment monitoring for program participants, and administrative costs incurred by the board, but shall not include costs incurred for a participant's evaluation, referral services, treatment, or rehabilitation.

These rules are intended to implement Iowa Code Supplement section 155A.39.
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