

MEDICINE BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby proposes to amend Chapter 9, “Permanent Physician Licensure,” Iowa Administrative Code.

The purpose of Chapter 9 is to establish qualifications for licensure of physicians and surgeons and administrative medicine physicians. The proposed amendments recognize the expedited licensure process through the new Interstate Medical Licensure Compact, rescind the Board’s obsolete licensure by expedited endorsement process, require that licensure application affidavits are signed by the applicant in the physical presence of a notary public, and update language throughout Chapter 9.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on July 21, 2017.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on October 31, 2017. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on October 31, 2017, at 11 a.m. at the Board’s office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 147, 147B, 148, and 272C.

The following amendments are proposed.

ITEM 1. Amend **653—Chapter 9**, title, as follows:

PERMANENT AND ADMINISTRATIVE MEDICINE PHYSICIAN LICENSURE

ITEM 2. Amend the following definitions in rule **653—9.1(147,148)**:

“*Applicant*” means a person who seeks authorization to practice medicine and surgery, or 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.

“*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, ~~medical school transcript, dean’s letter,~~ examination history, current ECFMG certificate status report, fifth pathway certificate, and postgraduate training verification.

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

~~“*Expedited endorsement*” means the process whereby the state issues an unrestricted license to practice medicine to an applicant who holds a valid unrestricted and unlimited license in another jurisdiction through the acceptance of the applicant’s core credentials that have been subject to primary source verification by another jurisdiction’s physician licensing board or other authority using a process substantially similar to Iowa’s process for verifying the authenticity of the applicant’s core credentials.~~

“*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.

“*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.

“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.

“Observer” means a person who is not enrolled in an ~~Iowa~~ 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 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.

ITEM 3. Adopt the following new definitions in rule **653—9.1(147,148)**:

“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).

“COCA” means the Commission on Osteopathic College Accreditation.

“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.

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

“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.

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

“Interstate commission” means the interstate commission created pursuant to Iowa Code chapter 147B.

“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.

ITEM 4. Amend subrule 9.2(1) as follows:

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.

ITEM 5. Amend rule 653—9.3(147,148) as follows:

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

9.3(1) *Requirements.* ~~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), ~~653—9.5(147,148) or 653—9.6(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) and (2) No change.

(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.~~ 3. Have successfully completed a fifth pathway program established in accordance with AMA criteria;

~~4.~~ 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.~~ 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) to (4) No change.

(5) 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. No change.

~~e.—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.~~

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

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.

ITEM 6. Amend rule 653—9.4(147,148) as follows:

653—9.4(147,148) Licensure by examination application.

~~9.4(1) Applicant eligibility. An applicant who has never been licensed in any United States or Canadian jurisdiction shall meet the following requirements to be eligible for permanent licensure by examination.~~

~~9.4(2) 9.4(1) Requirements.~~ To apply for permanent licensure, an applicant shall:

a. No change.

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 the USMLE, COMLEX, or Medical Council of Canada Examination~~ one of the examinations as prescribed in rule 653—9.7(147,148) and authorize the testing authority to verify scores.

~~9.4(3) 9.4(2) Application.~~ The application shall require the following information:

a. to h. No change.

i. If the educational institution awarding the applicant the degree has not been approved by the board, the applicant shall provide a valid current ECFMG certificate 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. to l. No change.

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. No change.

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. No change.

ITEM 7. Rescind and reserve rule **653—9.5(147,148)**.

ITEM 8. Rescind and reserve rule **653—9.6(147,148)**.

ITEM 9. Amend rule 653—9.7(147,148) as follows:

653—9.7(147,148) Licensure examinations.

9.7(1) USMLE.

a. to d. No change.

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. Board 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 is required if the applicant was not able to pass Steps 1, 2, and 3 within the required time as specified in this paragraph or proof the delay was caused by participation in a joint M.D./Ph.D. or D.O./Ph.D. program.

(2) to (5) No change.

(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. No change.

9.7(2) No change.

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 ~~permanent~~ licensure, the candidate must have passed both components ~~in Iowa~~ with a FLEX score of 75 or better within a seven-year period beginning with the date of initial examination.

(1) and (2) No change.

9.7(4) No change.

9.7(5) *Examinations for graduates of board-approved colleges of osteopathic medicine and surgery*
COMLEX.

~~*a.* COMLEX.~~

(1) 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. ~~Board~~ 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 is required if the applicant was not able to pass Levels 1, 2, and 3 within the required time as specified in this paragraph or proof the delay was caused by participation in a joint D.O./Ph.D. or M.D./Ph.D. program.

(2) ~~*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.

(3) ~~*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.

(4) ~~*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.

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

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

~~(7) 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.

~~b. 9.7(6) NBOME.~~ The board accepts a passing score on the NBOME licensure examination for graduates of colleges of osteopathic medicine and surgery in any United States jurisdiction.

~~(1) 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.

~~(2) b.~~ A passing score is required on each part of the examination.

~~(3) 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.

~~(4) 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.

~~(5) e.~~ Each NBOME part must have been passed individually, and individual part scores shall not be averaged to compute an overall score.

~~(6) f.~~ Part 3 must have been taken and passed only after Parts 1 and 2 were passed.

~~(7) 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(6) 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 P.O. Box/CP 8234, Station 'T', 1021 Thomas Spratt Place, Ottawa, Ontario, Canada K1G 3H7 5L5 or (613) ~~521-9417~~ 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.

ITEM 10. Amend rule 653—9.8(147,148) as follows:

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) No change.

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. ~~Staff shall refer an expedited endorsement applicant to the process for licensure by endorsement or to the committee if:~~

~~a.—The applicant does not meet the requirements set forth in rule 653—9.6(147,148) for expedited endorsement; or~~

~~b.—Staff has reasonable concerns about the accuracy or thoroughness of another jurisdiction's licensing process.~~

9.8(3) to 9.8(6) No change.

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. and b.~~ No change.

~~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) to (4)~~ No change.

d. to g. No change.

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

a. and b. No change.

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) to (4) No change.

d. to f. No change.

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—9.15(147,148) 653—9.17(147,148).

ITEM 11. Amend subrule 9.9(2) as follows:

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” ~~and shall update credentials~~ 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.

~~a.—The period for requesting reactivation is limited to 90 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.~~

~~b.—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 credentials and submit the remaining requested materials unless granted an extension in writing by the committee or the board.~~

~~c.—Once the reactivation period expires, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.~~

ITEM 12. Adopt the following **new** subrule 9.9(3):

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.

ITEM 13. Amend subrule 9.10(1) as follows:

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

ITEM 14. Amend rule 653—9.11(147,148) as follows:

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

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

a. to e. No change.

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

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

ITEM 15. Adopt the following **new** subrule 9.12(4):

9.12(4) *Practice name.* A licensee shall practice under the licensee’s full legal name.

ITEM 16. Amend rule 653—9.13(147,148) as follows:

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

9.13(1) and 9.13(2) No change.

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. and b. No change.

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 ~~original~~ initial permanent or administrative medicine license was issued for a period of less than 24 months.

9.13(4) to 9.13(6) No change.

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

ITEM 17. Amend rule 653—9.14(147,148), catchwords, as follows:

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

ITEM 18. Amend subrule 9.15(2) as follows:

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;

~~(2)~~ (3) A chronology accounting for all time periods from the date of initial licensure;

~~(3)~~ (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;

(4) (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;

~~(5)~~ (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;

~~(6)~~ (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;

(7) (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;

(8) (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

~~(9)~~(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. and c. No change.

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) to (4) No change.

e. No change.

ITEM 19. Amend rule 653—9.17(147,148) as follows:

653—9.17(147,148) Denial of licensure or determined to be ineligible for licensure through the IMLC.

9.17(1) No change.

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 may appeal ~~the denial~~ and request a hearing on the issues related to the preliminary notice of licensure denial or a Letter of Qualification determination by serving a request for hearing upon the executive director not more than 30 calendar days following the date ~~when the~~ of the mailing of a preliminary notice of licensure denial was mailed or a Letter of Qualification that asserts an applicant is ineligible for licensure through the IMLC. 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.

9.17(3) *Hearing.* If an applicant appeals the preliminary notice of licensure denial or a Letter of Qualification determination 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. ~~License denial hearings~~ Hearings for applicants denied licensure or determined to be ineligible for licensure 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 Letter of Qualification determination 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 eligibility for licensure through the 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 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.

f. Judicial review of a final order of the board denying licensure, ~~or~~ issuing a license with restrictions, 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) No change.

9.17(5) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial or a Letter of Qualification determination 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 denial or a Letter of Qualification

determination, 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 the preliminary notice of denial or a Letter of Qualification determination 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 denial or a Letter of Qualification determination becomes final. A final denial of an application for licensure or a Letter of Qualification asserting the board has determined that the applicant is ineligible for licensure through the IMLC under this rule is a public record.

ITEM 20. Rescind subrule **9.20(1)**.

ITEM 21. Renumber subrules **9.20(2)** to **9.20(7)** as **9.20(1)** to **9.20(6)**.

ITEM 22. Adopt the following new rule 653—9.21(147,147B,148):

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. "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. 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 Web site, 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.
- 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.

ITEM 23. Amend **653—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 147, 147B, 148, and 272C.