

CHAPTER 1015BUSINESS CORPORATIONS —
DISTRIBUTIONS AND BUSINESS OPPORTUNITIES

H.F. 2165

AN ACT relating to business corporations, by providing for distributions and business opportunities.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 490.640, subsection 7, Code 2007, is amended to read as follows:

7. Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection 1 if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

8. This section shall not apply to distributions in liquidation under division XIV.

Sec. 2. Section 490.831, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. That any of the following apply:

(1) A provision in the articles of incorporation authorized by section 490.202, subsection 2, paragraph "d", or the protection afforded by section 490.832 if interposed as a bar to the proceeding by the director, does not preclude liability.

(2) The protection afforded by section 490.870 precludes¹ liability.

Sec. 3. NEW SECTION. 490.870 BUSINESS OPPORTUNITIES.

1. A director's taking advantage, directly or indirectly, of a business opportunity may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that such opportunity should have first been offered to the corporation, if before becoming legally obligated respecting the opportunity the director brings it to the attention of the corporation and any of the following apply:

a. Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 490.832, as if the decision being made concerned a director's conflicting interest transaction.

b. Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedure set forth in section 490.832, as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making the disclosure as required in section 490.832, in each case the director shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

2. In any proceeding seeking equitable relief or other remedy based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection 1 before taking advantage of the opportunity shall not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

Approved March 25, 2008

¹ According to enrolled Act; the phrase "does not preclude" probably intended

CHAPTER 1016**DISPENSING OF PRESCRIPTION DRUGS —
PERMISSIBLE PRACTICES***H.F. 2166*

AN ACT relating to the practice of pharmacy, including provisions governing tech-check-tech programs and specifying applicable penalty provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 147.107, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A pharmacist, physician, dentist, or podiatric physician who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate non-judgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription dispensing is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system or when a pharmacist is utilizing a tech-check-tech program, as defined in section 155A.3. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. When using a tech-check-tech program the pharmacist shall utilize an internal quality control assurance plan, in accordance with rules adopted by the board of pharmacy that ensures accuracy for dispensing. Verification of automated dispensing and tech-check-tech accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the board of pharmacy, the board of medicine, the dental board, and the board of podiatry for their respective licensees.

Sec. 2. Section 155A.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 39A. "Tech-check-tech program" means a program formally established by a pharmacist in charge of a pharmacy who has determined that one or more certified pharmacy technicians are qualified to safely check the work of other certified pharmacy technicians and thereby provide final verification for drugs which are dispensed for subsequent administration to patients in an institutional setting.

Sec. 3. Section 155A.6A, subsection 4, Code Supplement 2007, is amended to read as follows:

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy technician registration, application, forms, renewals, fees, termination of registration, tech-check-tech programs, national certification, training, and any other relevant matters.

Sec. 4. Section 155A.24, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. If the prescription drug is a controlled substance, the person shall be punished pursuant to section 124.401, subsection 1, and other provisions of chapter 124, division IV.

Sec. 5. Section 155A.33, Code 2007, is amended to read as follows:

155A.33 DELEGATION OF TECHNICAL FUNCTIONS — ~~AUTOMATED DISPENSING SYSTEMS.~~

A pharmacist may delegate technical dispensing functions to pharmacy technicians, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient's prescription prior to the delivery of the prescription to the patient or the patient's repre-