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SENATE FILE 446

BY COMMITTEE ON STATE GOVERNMENT

(formerly SSB 124)  
Approved (y. 11/1)

Passed Senate, Date \_\_\_\_\_

Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the regulation of pharmacists and pharmacies  
2 and to administration, dispensing, and distribution of certain  
3 drugs, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 155A.1 SHORT TITLE.

2 This chapter may be cited as the "Iowa Pharmacy Practice  
3 Act."

4 Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION --  
5 PURPOSE.

6 1. The practice of pharmacy in this state is declared a  
7 professional practice affecting the public health, safety, and  
8 welfare and is subject to regulation and control in the public  
9 interest. It is further declared to be a matter of public  
10 interest and concern that the practice of pharmacy, as defined  
11 in this chapter, merit and receive the confidence of the  
12 public and that only qualified persons be permitted to engage  
13 in the practice of pharmacy in this state. This chapter shall  
14 be liberally construed to carry out these objects and  
15 purposes.

16 2. It is the purpose of this chapter to promote, preserve,  
17 and protect the public health, safety, and welfare through the  
18 effective regulation of the practice of pharmacy and the  
19 licensing of pharmacies, pharmacists, and others engaged in  
20 the sale, delivery, or distribution of prescription drugs and  
21 devices or other classes of drugs or devices which may be  
22 authorized.

23 3. Practitioners licensed under a separate chapter of the  
24 Code are not regulated by this chapter except when engaged in  
25 the operation of a pharmacy for the retailing of prescription  
26 drugs.

27 Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

28 As used in this chapter, unless the context otherwise  
29 requires:

30 1. "Administer" means the direct application of a  
31 prescription drug, whether by injection, inhalation,  
32 ingestion, or any other means, to the body of a patient or  
33 research subject by one of the following:

- 34 a. A practitioner or the practitioner's authorized agent.  
35 b. The patient or research subject at the direction of a

1 practitioner.

2 2. "Authorized agent" means an individual designated by a  
3 practitioner who is under the supervision of the practitioner  
4 and for whom the practitioner assumes legal responsibility.

5 3. "Board" means the board of pharmacy examiners.

6 4. "Brand name" or "trade name" means the registered  
7 trademark name given to a drug product or ingredient by its  
8 manufacturer, labeler, or distributor.

9 5. "College of pharmacy" means a school, university, or  
10 college of pharmacy that satisfies the accreditation standards  
11 of the American council on pharmaceutical education as adopted  
12 by the board, or that has degree requirements which meet the  
13 standards of accreditation adopted by the board.

14 6. "Controlled substance" means a drug substance,  
15 immediate precursor, or other substance listed in division II  
16 of chapter 204.

17 7. "Controlled substances Act" means chapter 204.

18 8. "Deliver" or "delivery" means the actual, constructive,  
19 or attempted transfer of a prescription drug or device or  
20 controlled substance from one person to another, whether or  
21 not for a consideration.

22 9. "Demonstrated bioavailability" means the rate and  
23 extent of absorption of a drug or drug ingredient from a  
24 specified dosage form, as reflected by the time-concentration  
25 curve of the drug or drug ingredient in the systemic  
26 circulation.

27 10. "Device" means an instrument, apparatus, implement,  
28 machine, contrivance, implant, in vitro reagent, or other  
29 similar or related article, including any component part or  
30 accessory, that is required under federal or state law to be  
31 ordered or prescribed by a practitioner.

32 11. "Dispense" means to deliver a prescription drug or  
33 controlled substance to an ultimate user or research subject  
34 by or pursuant to the lawful prescription drug order or  
35 medication order of a practitioner, including the prescribing,

1 administering, packaging, labeling, or compounding necessary  
2 to prepare the substance for that delivery.

3 12. "Distribute" means the delivery of a prescription drug  
4 or device.

5 13. "Drug" means one or more of the following:

6 a. A substance recognized as a drug in the current  
7 official United States Pharmacopoeia and National Formulary,  
8 official Homeopathic Pharmacopoeia, or other drug compendium  
9 or any supplement to any of them.

10 b. A substance intended for use in the diagnosis, cure,  
11 mitigation, treatment, or prevention of disease in humans or  
12 other animals.

13 c. A substance, other than food, intended to affect the  
14 structure or any function of the body of humans or other  
15 animals.

16 d. A substance intended for use as a component of any  
17 substance specified in paragraph "a", "b", or "c".

18 e. A controlled substance.

19 14. "Drug product selection" means the act of selecting  
20 the source of supply of a drug product.

21 15. "Generic name" means the official title of a drug or  
22 drug ingredient published in the current official United  
23 States Pharmacopoeia and National Formulary, official  
24 Homeopathic Pharmacopoeia, or other drug compendium published  
25 by the United States pharmacopoeial convention or any  
26 supplement to any of them.

27 16. "Internship" means a practical experience program  
28 approved by the board for persons training to become  
29 pharmacists.

30 17. "Label" means written, printed, or graphic matter on  
31 the immediate container of a drug or device.

32 18. "Labeling" means the process of preparing and affixing  
33 a label including information required by federal or state law  
34 or regulation to a drug or device container. The term does  
35 not include the labeling by a manufacturer, packer, or

1 distributor of a nonprescription drug or commercially packaged  
2 prescription drug or device or unit dose packaging.

3 19. "Medication order" means a written order from a  
4 practitioner or an oral order from a practitioner or the  
5 practitioner's authorized agent for administration of a drug  
6 or device.

7 20. "Pharmacist" means a person licensed by the board to  
8 practice pharmacy.

9 21. "Pharmacist in charge" means the pharmacist designated  
10 on a pharmacy license as the pharmacist who has the authority  
11 and responsibility for the pharmacy's compliance with laws and  
12 rules pertaining to the practice of pharmacy.

13 22. "Pharmacist-intern" means an undergraduate student  
14 enrolled in the professional sequence of a college of pharmacy  
15 approved by the board, or a graduate of a college of pharmacy,  
16 who is participating in a board-approved internship under the  
17 supervision of a preceptor.

18 23. "Pharmacy" means a location where prescription drugs  
19 are compounded, dispensed, or sold by a pharmacist and where  
20 prescription drug orders are received or processed in  
21 accordance with the pharmacy laws.

22 24. "Pharmacy license" means a license issued to a  
23 pharmacy or other place where prescription drugs or devices  
24 are dispensed to the general public pursuant to a prescription  
25 drug order.

26 25. "Practice of pharmacy" is a dynamic patient-oriented  
27 health service that applies a scientific body of knowledge to  
28 improve and promote patient health by means of appropriate  
29 drug use and related drug therapy.

30 26. "Practitioner" means a physician, dentist, podiatrist,  
31 veterinarian, or other person licensed or registered to  
32 distribute or dispense a prescription drug or device in the  
33 course of professional practice in this state or a person  
34 licensed by another state in a health field in which, under  
35 Iowa law, licensees in this state may legally prescribe drugs.

1 27. "Preceptor" means a pharmacist in good standing  
2 licensed in this state to practice pharmacy and approved by  
3 the board to supervise and be responsible for the activities  
4 and functions of a pharmacist-intern in the internship  
5 program.

6 28. "Prescription drug" means any of the following:

7 a. A substance for which federal or state law requires a  
8 prescription before it may be legally dispensed to the public.

9 b. A drug or device that under federal law is required,  
10 prior to being dispensed or delivered, to be labeled with  
11 either of the following statements:

12 (1) Caution: Federal law prohibits dispensing without a  
13 prescription.

14 (2) Caution: Federal law restricts this drug to use by or  
15 on the order of a licensed veterinarian.

16 c. A drug or device that is required by any applicable  
17 federal or state law or regulation to be dispensed on  
18 prescription only, or is restricted to use by a practitioner  
19 only.

20 29. "Prescription drug order" means a written order from a  
21 practitioner or an oral order from a practitioner or the  
22 practitioner's authorized agent who communicates the  
23 practitioner's instructions, to a pharmacist for a  
24 prescription drug or device to be dispensed.

25 30. "Proprietary medicine" means a nonnarcotic drug or  
26 device that may be sold without a prescription and that is  
27 labeled and packaged in compliance with applicable state or  
28 federal law.

29 31. "Ultimate user" means a person who has lawfully  
30 obtained and possesses a prescription drug or device for the  
31 person's own use or for the use of a member of the person's  
32 household or for administering to an animal owned by the  
33 person or by a member of the person's household.

34 32. "Unit dose packaging" means the packaging of  
35 individual doses of a drug in containers which preserve the

1 identity and integrity of the drug from the point of packaging  
2 to administration and which are properly labeled pursuant to  
3 rules of the board.

4 33. "Wholesaler" means a person operating or maintaining,  
5 either within or outside this state, a manufacturing plant,  
6 wholesale distribution center, wholesale business, or any  
7 other business in which prescription drugs, medicinal  
8 chemicals, medicines, or poisons are sold, manufactured,  
9 compounded, dispensed, stocked, exposed, or offered for sale  
10 at wholesale in this state. "Wholesaler" does not include  
11 those wholesalers who sell only proprietary medicines.

12 Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST  
13 UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION  
14 DRUGS -- EXCEPTIONS.

15 1. A person shall not dispense prescription drugs unless  
16 that person is a licensed pharmacist or is authorized by  
17 section 147.107 to dispense or distribute prescription drugs.

18 2. Notwithstanding subsection 1, it is not unlawful for:

19 a. A manufacturer or wholesaler to distribute prescription  
20 drugs as provided by state or federal law.

21 b. A practitioner, licensed by the appropriate state  
22 board, to dispense prescription drugs to patients as incident  
23 to the practice of the profession, except with respect to the  
24 operation of a pharmacy for the retailing of prescription  
25 drugs.

26 c. A practitioner, licensed by the appropriate state  
27 board, to administer drugs to patients. This chapter does not  
28 prevent a practitioner from delegating the administration of a  
29 prescription drug to a nurse, intern, or other qualified  
30 individual or, in the case of a veterinarian, to an orderly or  
31 assistant, under the practitioner's direction and supervision.

32 d. A person to sell at retail a proprietary medicine, an  
33 insecticide, a fungicide, or a chemical used in the arts, if  
34 properly labeled.

35 e. A person to procure prescription drugs for lawful

1 research, teaching, or testing and not for resale.

2 f. A pharmacy to distribute a prescription drug to another  
3 pharmacy or to a practitioner.

4 Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

5 Notwithstanding the existence or pursuit of any other  
6 remedy the board may, in the manner provided by law, maintain  
7 an action in the name of the state for injunction or other  
8 process against any person to restrain or prevent the  
9 establishment, conduct, management, or operation of a pharmacy  
10 or wholesaler, without license, or to prevent the violation of  
11 provisions of this chapter. Upon request of the board, the  
12 attorney general shall institute the proper proceedings and  
13 the county attorney, at the request of the attorney general,  
14 shall appear and prosecute the action when brought in the  
15 county attorney's county.

16 Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS -- PHARMACIST-  
17 INTERN REGISTRATION.

18 1. A program of pharmacist internships is established.  
19 Each internship is subject to approval by the board.

20 2. A person desiring to be a pharmacist-intern in this  
21 state shall apply to the board for registration. The  
22 application must be on a form prescribed by the board. A  
23 pharmacist-intern must be registered during internship  
24 training and thereafter pursuant to rules adopted by the  
25 board.

26 3. The board shall establish standards for registration  
27 and may deny, suspend, or revoke a pharmacist-intern  
28 registration for failure to meet the standards or for any  
29 violation of this chapter.

30 4. The board shall adopt rules in accordance with chapter  
31 17A on matters pertaining to registration standards,  
32 registration fees, conditions of registration, termination of  
33 registration, and approval of preceptors.

34 Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

35 A person shall not engage in the practice of pharmacy in

1 this state without a license. The license shall be identified  
2 as a pharmacist license.

3 Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST  
4 LICENSE.

5 To qualify for a pharmacist license, an applicant shall  
6 meet the following requirements:

7 1. Be a graduate of a school or college of pharmacy or of  
8 a department of pharmacy of a university recognized and  
9 approved by the board.

10 2. File proof, satisfactory to the board, of internship  
11 for a period of time fixed by the board.

12 3. Pass an examination prescribed by the board.

13 Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES --  
14 GRADUATES OF FOREIGN COLLEGES.

15 1. A college of pharmacy shall not be approved by the  
16 board unless the college is accredited by the American council  
17 on pharmaceutical education.

18 2. An applicant who is a graduate of a school or college  
19 of pharmacy located outside the United States but who is  
20 otherwise qualified to apply for a pharmacist license in this  
21 state may be deemed to have satisfied the requirements of  
22 section 155A.8, subsection 1, by verification to the board of  
23 the applicant's academic record and graduation and by meeting  
24 other requirements established by rule of the board. The  
25 board may require the applicant to pass an examination or  
26 examinations given or approved by the board to establish  
27 proficiency in English and equivalency of education as a  
28 prerequisite for taking the licensure examination required in  
29 section 155A.8, subsection 3.

30 Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST  
31 LICENSE.

32 A pharmacist shall publicly display the license to practice  
33 pharmacy and the license renewal certificate pursuant to rules  
34 adopted by the board.

35 Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST

1 LICENSE.

2 The board shall specify by rule the procedures to be  
3 followed and the fee to be paid for a renewal certificate, and  
4 penalties for late renewal or failure to renew a pharmacist  
5 license.

6 Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE --  
7 GROUNDS FOR DISCIPLINE.

8 The board shall refuse to issue a pharmacist license for  
9 failure to meet the requirements of section 155A.8. The board  
10 may refuse to issue or renew a license or may impose a fine,  
11 issue a reprimand, or revoke, restrict, cancel, or suspend a  
12 license, and may place a licensee on probation, if the board  
13 finds that the applicant or licensee has done any of the  
14 following:

15 1. Violated any provision of this chapter or any rules of  
16 the board adopted under this chapter.

17 2. Engaged in unethical conduct as that term is defined by  
18 rules of the board.

19 3. Violated any of the provisions for licensee discipline  
20 set forth in section 147.55.

21 4. Failed to keep and maintain records required by this  
22 chapter or failed to keep and maintain complete and accurate  
23 records of purchases and disposal of drugs listed in the  
24 controlled substances Act.

25 5. Violated any provision of the controlled substances Act  
26 or rules relating to that Act.

27 6. Aided or abetted an unlicensed individual to engage in  
28 the practice of pharmacy.

29 7. Refused an entry into any pharmacy for any inspection  
30 authorized by this chapter.

31 8. Violated the pharmacy or drug laws or rules of any  
32 other state of the United States while under the other state's  
33 jurisdiction.

34 9. Been convicted of an offense or subjected to a penalty  
35 or fine for violation of chapter 147, 203, 203A, 204, or the

1 Federal Food, Drug and Cosmetic Act. A plea or verdict of  
2 guilty, or a conviction following a plea of nolo contendere,  
3 is deemed to be a conviction within the meaning of this  
4 section.

5 10. Had a license to practice pharmacy issued by another  
6 state canceled, revoked, or suspended for conduct  
7 substantially equivalent to conduct described in subsections 1  
8 through 9. A certified copy of the record of the state taking  
9 action as set out above shall be conclusive evidence of the  
10 action taken by such state.

11 Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

12 1. A person shall not establish, conduct, or maintain a  
13 pharmacy in this state without a license. The license shall  
14 be identified as a pharmacy license.

15 2. The board shall specify by rule the licensing  
16 procedures to be followed, including specifications of forms  
17 for use in applying for a pharmacy license and fees for filing  
18 an application.

19 3. The board may issue a special or limited-use pharmacy  
20 license based upon special conditions of use imposed pursuant  
21 to rules adopted by the board for cases in which the board  
22 determines that certain requirements may be waived.

23 4. To qualify for a pharmacy license, the applicant shall  
24 submit to the board a license fee as determined by the board  
25 and a completed application on a form prescribed by the board  
26 that shall include the following information and be given  
27 under oath:

- 28 a. Ownership.
- 29 b. Location.
- 30 c. The license number of each pharmacist employed by the  
31 pharmacy at the time of application.
- 32 d. The trade or corporate name of the pharmacy.
- 33 e. The name of the pharmacist in charge, who has the  
34 authority and responsibility for the pharmacy's compliance  
35 with laws and rules pertaining to the practice of pharmacy.

1 5. A person who falsely makes the affidavit prescribed in  
2 subsection 4 is subject to all penalties prescribed for making  
3 a false affidavit.

4 6. A pharmacy license issued by the board under this  
5 chapter shall be issued in the name of the pharmacist in  
6 charge and is not transferable or assignable.

7 7. The board shall specify by rule minimum standards for  
8 professional responsibility in the conduct of a pharmacy.

9 8. A separate license is required for each principal place  
10 of practice.

11 9. The license of the pharmacy shall be displayed.

12 Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY  
13 LICENSE.

14 The board shall specify by rule the procedures to be  
15 followed and the fee to be paid for a renewal certificate, and  
16 the penalties for late renewal or failure to renew a pharmacy  
17 license.

18 Sec. 15. NEW SECTION. 155A.15 PHARMACIES -- LICENSE  
19 REQUIRED -- DISCIPLINE, VIOLATIONS, AND PENALTIES.

20 1. A pharmacy subject to section 155A.13 shall not be  
21 operated until a license or renewal certificate has been  
22 issued to the pharmacy by the board.

23 2. The board shall refuse to issue a pharmacy license for  
24 failure to meet the requirements of section 155A.13. The  
25 board may refuse to issue or renew a license or may impose a  
26 fine, issue a reprimand, or revoke, restrict, cancel, or  
27 suspend a license, and may place a licensee on probation, if  
28 the board finds that the applicant or licensee has done any of  
29 the following:

30 a. Been convicted of a felony or a misdemeanor involving  
31 moral turpitude, or if the applicant is an association, joint  
32 stock company, partnership, or corporation, that a managing  
33 officer has been convicted of a felony or a misdemeanor  
34 involving moral turpitude, under the law of this state,  
35 another state, or the United States.

1 b. Advertised any prescription drugs or devices in a  
2 deceitful, misleading, or fraudulent manner.

3 c. Violated any provision of this chapter or any rule  
4 adopted under this chapter or that any owner or employee of  
5 the pharmacy has violated any provision of this chapter or any  
6 rule adopted under this chapter.

7 d. Delivered without legal authorization prescription  
8 drugs or devices to a person other than one of the following:

9 (1) A pharmacy licensed by the board.

10 (2) A practitioner.

11 (3) A person who procures prescription drugs or devices  
12 for the purpose of lawful research, teaching, or testing, and  
13 not for resale.

14 (4) A manufacturer or wholesaler licensed by the board.

15 However, this chapter does not prohibit a pharmacy from  
16 furnishing a prescription drug or device to a licensed health  
17 care facility for storage in a secured emergency  
18 pharmaceutical supplies container maintained within the  
19 facility in accordance with regulations of the Iowa department  
20 of public health.

21 e. Allowed an employee who is not a licensed pharmacist to  
22 practice pharmacy.

23 f. Delivered mislabeled prescription or nonprescription  
24 drugs.

25 g. Failed to engage in or ceased to engage in the business  
26 described in the application for a license.

27 h. Failed to keep and maintain records as required by this  
28 chapter, the controlled substances Act, or rules adopted under  
29 the controlled substances Act.

30 i. Failed to establish effective controls against  
31 diversion of prescription drugs into other than legitimate  
32 medical, scientific, or industrial channels as provided by  
33 this chapter and other Iowa or federal laws or rules.

34 Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

35 Unless otherwise provided, any disciplinary action taken by

1 the board under section 155A.12 or 155A.15 is governed by  
2 chapter 17A and the rules of practice and procedure before the  
3 board.

4 Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

5 A person shall not establish, conduct or maintain a  
6 wholesale drug business as defined in this chapter without a  
7 license. The license shall be identified as a wholesale drug  
8 license.

9 Sec. 18. NEW SECTION. 155A.18 PENALTIES.

10 The board shall impose penalties as allowed under section  
11 258A.3. In addition, civil penalties not to exceed twenty-  
12 five thousand dollars, may be imposed.

13 Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

14 1. A pharmacy shall report in writing to the board,  
15 pursuant to its rules, the following:

16 a. Permanent closing.

17 b. Change of ownership.

18 c. Change of location.

19 d. Change of pharmacist in charge.

20 e. The sale or transfer of prescription drugs, including  
21 controlled substances, on the permanent closing or change of  
22 ownership of the pharmacy.

23 f. Out-of-state purchases of controlled substances.

24 g. Theft or significant loss of any controlled substance  
25 on discovery of the theft or loss.

26 h. Disasters, accidents, and emergencies that may affect  
27 the strength, purity, or labeling of drugs, medications,  
28 devices, or other materials used in the diagnosis or the  
29 treatment of injury, illness, and disease.

30 2. A pharmacist shall report in writing to the board  
31 within ten days a change of address or place of employment.

32 Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND  
33 TITLES -- IMPERSONATION.

34 1. A person shall not display in or on any store or place  
35 of business the word or words: "apothecary", "drug", "drug

1 store", or "pharmacy", either in English or any other  
2 language, any other word or combination of words of the same  
3 or similar meaning, or any graphic representation that would  
4 mislead the public unless it is a pharmacy or drug wholesaler  
5 licensed under this chapter.

6 2. A person shall not do any of the following:

7 a. Impersonate before the board an applicant applying for  
8 licensing under this chapter.

9 b. Impersonate an Iowa licensed pharmacist.

10 c. Use the title pharmacist, druggist, apothecary, or  
11 words of similar intent unless the person is licensed to  
12 practice pharmacy.

13 3. A pharmacist shall not utilize the title "Dr." or  
14 "Doctor" if that pharmacist has not acquired the doctor of  
15 pharmacy degree from an approved college of pharmacy or the  
16 doctor of philosophy degree in an area related to pharmacy.

17 Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF  
18 PRESCRIPTION DRUG -- PENALTY.

19 1. A person found in possession of a drug limited to  
20 dispensation by prescription, unless the drug was so lawfully  
21 dispensed, commits a serious misdemeanor.

22 2. Subsection 1 does not apply to a licensed pharmacy,  
23 licensed wholesaler, physician, veterinarian, dentist,  
24 podiatrist, therapeutically certified optometrist, a nurse  
25 acting under the direction of a physician, or the board of  
26 pharmacy examiners, its officers, agents, inspectors, and  
27 representatives, nor to a common carrier or messenger when  
28 transporting the drug in the same unbroken package in which  
29 the drug was delivered to that person for transportation.

30 Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.

31 A person who violates any of the provisions of this chapter  
32 or any chapter pertaining to or affecting the practice of  
33 pharmacy for which a specific penalty is not provided commits  
34 a simple misdemeanor.

35 Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.

1 A person shall not:

2 1. Obtain or attempt to obtain a prescription drug or  
3 procure or attempt to procure the administration of a  
4 prescription drug by:

5 a. Fraud, deceit, misrepresentation, or subterfuge.

6 b. Forgery or alteration of a prescription or of any  
7 written order.

8 c. Concealment of a material fact.

9 d. Use of a false name or the giving of a false address.

10 2. Willfully make a false statement in any prescription,  
11 report, or record required by this chapter.

12 3. For the purpose of obtaining a prescription drug,  
13 falsely assume the title of or claim to be a manufacturer,  
14 wholesaler, pharmacist, pharmacy owner, physician, dentist,  
15 podiatrist, veterinarian, or other authorized person.

16 4. Make or utter any false or forged prescription or  
17 written order.

18 5. Affix any false or forged label to a package or  
19 receptacle containing prescription drugs.

20 Information communicated to a physician in an unlawful  
21 effort to procure a prescription drug or to procure the  
22 administration of a prescription drug shall not be deemed a  
23 privileged communication.

24 Sec. 24. NEW SECTION. 155A.24 PENALTIES.

25 A person who violates a provision of section 155A.23 or who  
26 sells or offers for sale, gives away, or administers to  
27 another person any prescription drug commits a public offense  
28 and shall be punished as follows:

29 If the prescription drug is a controlled substance, the  
30 person shall be punished pursuant to section 204.401,  
31 subsection 1, and section 204.411.

32 If the prescription drug is not a controlled substance, the  
33 person, upon conviction of a first offense, is guilty of a  
34 serious misdemeanor. For a second offense, or if in case of a  
35 first offense the offender previously has been convicted of

1 any violation of the laws of the United States or of any  
2 state, territory, or district thereof relating to prescription  
3 drugs, the offender is guilty of an aggravated misdemeanor.  
4 For a third or subsequent offense or if in the case of a  
5 second offense the offender previously has been convicted two  
6 or more times in the aggregate of any violation of the laws of  
7 the United States or of any state, territory, or district  
8 thereof relating to prescription drugs, the offender is guilty  
9 of a class "D" felony.

10 A person who violates any provision of this chapter by  
11 selling, giving away, or administering any prescription drug  
12 to a minor is guilty of a class "C" felony.

13 This section does not prevent a licensed practitioner of  
14 medicine, dentistry, podiatry, nursing, veterinary medicine,  
15 or pharmacy from acts necessary in the ethical and legal  
16 performance of the practitioner's profession.

17 Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

18 In any complaint, information, or indictment, and in any  
19 action or proceeding brought for the enforcement of any  
20 provisions of this chapter, it shall not be necessary to  
21 negate any exception, excuse, proviso, or exemption contained  
22 in this chapter, and the burden of proof of any such  
23 exception, excuse, proviso, or exemption shall be upon the  
24 defendant.

25 Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT -- AGENTS AS  
26 PEACE OFFICERS.

27 The board of pharmacy examiners, its officers, agents,  
28 inspectors, and representatives, and all peace officers within  
29 the state, and all county attorneys shall enforce all  
30 provisions of this chapter, except those specifically  
31 delegated, and shall cooperate with all agencies charged with  
32 the enforcement of the laws of the United States, of this  
33 state, and of all other states relating to prescription drugs.  
34 Officers, agents, inspectors, and representatives of the board  
35 of pharmacy examiners shall have the powers and status of

1 peace officers when enforcing the provisions of this chapter.

2 Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR  
3 PRESCRIPTION.

4 Each prescription drug order issued or filled in this  
5 state:

6 1. If written, shall contain:

7 a. The date of issue.

8 b. The name and address of the patient for whom, or the  
9 owner of the animal for which, the drug is dispensed.

10 c. The name, strength, and quantity of the drug, medicine,  
11 or device prescribed.

12 d. The directions for use of the drug, medicine, or device  
13 prescribed.

14 e. The name, address, and signature of the practitioner  
15 issuing the prescription.

16 f. The federal drug enforcement administration number, if  
17 required under chapter 204.

18 2. If oral, the practitioner issuing the prescription  
19 shall furnish the same information required for a written  
20 prescription, except for the written signature and address of  
21 the practitioner. Upon receipt of an oral prescription, the  
22 pharmacist shall promptly reduce the oral prescription to a  
23 written format by recording the information required in a  
24 written prescription.

25 Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION  
26 DRUGS.

27 The label of any drug or device sold and dispensed on the  
28 prescription of a practitioner shall be in compliance with  
29 rules adopted by the board.

30 Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.

31 1. Except as specified in subsection 2, a prescription for  
32 any prescription drug or device which is not a controlled  
33 substance shall not be filled or refilled more than one year  
34 and six months after the date on which the prescription was  
35 issued and a prescription which is authorized to be refilled

1 shall not be refilled more than eleven times.

2 2. A pharmacist may exercise professional judgment by  
3 refilling a prescription without prescriber authorization if  
4 all of the following are true:

5 a. The pharmacist is unable to contact the prescriber  
6 after reasonable effort.

7 b. Failure to refill the prescription might result in an  
8 interruption of therapeutic regimen or create patient  
9 suffering.

10 c. The pharmacist informs the patient or the patient's  
11 representative at the time of dispensing, and the practitioner  
12 at the earliest convenience that prescriber reauthorization is  
13 required.

14 3. Prescriptions may be refilled once pursuant to  
15 subsection 2 for a period of time reasonably necessary for the  
16 pharmacist to secure prescriber authorization.

17 Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION  
18 ORDERS.

19 Prescription drug orders issued by out-of-state  
20 practitioners who would be authorized to prescribe if they  
21 were practicing in Iowa may be filled by licensed pharmacists  
22 operating in licensed Iowa pharmacies.

23 Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

24 A licensed pharmacy in this state shall maintain a  
25 reference library pursuant to rules of the board.

26 Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT SELECTION --  
27 RESTRICTIONS.

28 1. If an authorized prescriber prescribes, either in  
29 writing or orally, a drug by its brand or trade name, the  
30 pharmacist may exercise professional judgment in the economic  
31 interest of the patient by selecting a drug product with the  
32 same generic name and demonstrated bioavailability as the one  
33 prescribed for dispensing and sale to the patient. If the  
34 pharmacist does so, the pharmacist shall inform the patient of  
35 the savings which the patient will obtain as a result of the

1 drug product selection and pass on to the patient no less than  
2 fifty percent of the difference in actual acquisition costs  
3 between the drug prescribed and the drug substituted.

4 2. The pharmacist shall not exercise the drug product  
5 selection described in this section if either of the following  
6 is true:

7 a. The prescriber specifically indicates that no drug  
8 product selection shall be made.

9 b. The person presenting the prescription indicates that  
10 only the specific drug product prescribed should be dispensed.

11 3. If selection of a generically equivalent product is  
12 made under this section, the pharmacist making the selection  
13 shall note that fact and the name of the manufacturer of the  
14 selected drug on the prescription presented by the patient or  
15 the patient's adult representative.

16 Sec. 33. NEW SECTION. 155A.33 DELEGATION OF  
17 NONJUDGMENTAL FUNCTIONS.

18 A pharmacist may delegate nonjudgmental dispensing  
19 functions to assistants, but only if the pharmacist is  
20 physically present to verify the accuracy and completeness of  
21 the patient's prescription prior to delivery to the patient or  
22 the patient's representative.

23 Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

24 A pharmacist may transfer a valid prescription order to  
25 another pharmacist pursuant to rules adopted by the board.

26 Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION  
27 RECORDS.

28 A licensed pharmacy shall maintain patient medication  
29 records in accordance with rules adopted by the board.

30 Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY  
31 SYSTEMS.

32 Drugs dispensed utilizing unit dose packaging shall comply  
33 with labeling and packaging requirements in accordance with  
34 rules adopted by the board.

35 Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL

1 RESPONSIBILITY FOR BOARD EMPLOYEES.

2 1. The board shall adopt a code of professional  
3 responsibility to regulate the conduct of board employees  
4 responsible for inspections and surveys of pharmacies.

5 2. The code shall contain a procedure to be followed by  
6 personnel of the board in all of the following:

7 a. On entering a pharmacy.

8 b. During inspection of the pharmacy.

9 c. During the exit conference.

10 3. The code shall contain standards of conduct that  
11 personnel of the board are to follow in dealing with the staff  
12 and management of the pharmacy and the general public.

13 4. The board shall establish a procedure for receiving and  
14 investigating complaints of violations of this code. The  
15 board shall investigate all complaints of violations. The  
16 results of an investigation shall be forwarded to the  
17 complainant.

18 5. The board may adopt rules establishing sanctions for  
19 violations of this code of professional responsibility.

20 Sec. 38. Section 106.12, subsection 2, Code 1987, is  
21 amended to read as follows:

22 2. No A person shall not operate any vessel, or manipulate  
23 any water skis, surfboard or similar device while under the  
24 influence of an alcoholic beverage, marijuana, a narcotic,  
25 hypnotic or other drug, or any combination of these  
26 substances. However, this subsection ~~shall~~ does not apply to  
27 a person operating any vessel or manipulating any water skis,  
28 surfboard or similar device while under the influence of  
29 marijuana, or a narcotic, hypnotic or other drug if the  
30 substances were prescribed for the person and have been taken  
31 under the prescription and in accordance with the directions  
32 of a medical practitioner as defined in ~~section-155-37~~  
33 ~~subsection-11~~ chapter 155A, provided there is no evidence of  
34 the consumption of alcohol and further provided the medical  
35 practitioner has not directed the person to refrain from

1 operating a motor vehicle, any vessel or from manipulating any  
2 water skis, surfboard or similar device.

3 Sec. 39. Section 135.61, subsection 10, Code 1987, is  
4 amended to read as follows:

5 10. "Health care provider" means a person licensed or  
6 certified under chapter 147, 148, 148A, 148C, 149, 150, 150A,  
7 151, 152, 153, 154, 154B, or ~~±55~~ 155A to provide in this state  
8 professional health care service to an individual during that  
9 individual's medical care, treatment or confinement.

10 Sec. 40. Section 147.74, Code 1987, is amended by adding  
11 the following new unnumbered paragraph:

12 NEW UNNUMBERED PARAGRAPH. A pharmacist who possesses a  
13 doctoral degree recognized by the American council of  
14 pharmaceutical education from a college of pharmacy approved  
15 by the board of pharmacy examiners or a doctor of philosophy  
16 degree in an area related to pharmacy may use the prefix  
17 "Doctor" or "Dr." but shall add after the person's name the  
18 word "Pharmacist" or "Pharm. D.".

19 Sec. 41. Section 152.1, subsection 1, paragraph a, Code  
20 1987, is amended to read as follows:

21 a. The practice of medicine and surgery, as defined in  
22 chapter 148, the osteopathic practice, as defined in chapter  
23 150, the practice of osteopathic medicine and surgery, as  
24 defined in chapter 150A, or the practice of pharmacy as  
25 defined in chapter ~~±55~~ 155A, except practices which are  
26 recognized by the medical and nursing professions and approved  
27 by the board as proper to be performed by a registered nurse.

28 Sec. 42. Section 166.3, Code 1987, is amended to read as  
29 follows:

30 166.3 PERMIT TO MANUFACTURE OR SELL.

31 Every person, before engaging as a manufacturer of, or  
32 dealer in, biological products shall obtain from the  
33 department a permit for that purpose and shall be required to  
34 have a separate permit for each place of business. ~~No~~ A  
35 pharmacy licensed under chapter ~~±55~~ 155A shall not be required

1 to obtain a dealer's permit to deal in biological products.

2 Sec. 43. Section 203A.19, unnumbered paragraph 1, Code  
3 1987, is amended to read as follows:

4 Any prescription drug, as defined in ~~section-155-37~~  
5 ~~subsection-10~~ chapter 155A, is misbranded unless:

6 Sec. 44. Section 204.308, subsection 3, Code 1987, is  
7 amended to read as follows:

8 3. Except when dispensed directly by a practitioner, other  
9 than a pharmacy, to an ultimate user, a controlled substance  
10 included in schedule III or IV, which is a prescription drug  
11 as determined under ~~section-155-37-subsections-9-and-10~~  
12 chapter 155A, shall not be dispensed without a written or oral  
13 prescription of a practitioner. The prescription may not be  
14 filled or refilled more than six months after the date thereof  
15 or be refilled more than five times, unless renewed by the  
16 practitioner.

17 Sec. 45. Section 258A.5, subsection 2, paragraph c, Code  
18 1987, is amended to read as follows:

19 c. Shall state whether the procedures are an alternative  
20 to or an addition to the procedures stated in sections 114.22,  
21 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to  
22 148.9, 153.23 to 153.30, 153.33, and 154A.23, ~~and-155-14-to~~  
23 ~~155-16~~.

24 Sec. 46. Section 321J.2, subsection 6, Code 1987, is  
25 amended to read as follows:

26 6. This section does not apply to a person operating a  
27 motor vehicle while under the influence of a drug if the  
28 substance was prescribed for the person and was taken under  
29 the prescription and in accordance with the directions of a  
30 medical practitioner as defined in ~~section-155-37-subsection~~  
31 ~~11~~ chapter 155A, if there is no evidence of the consumption of  
32 alcohol and the medical practitioner had not directed the  
33 person to refrain from operating a motor vehicle.

34 Sec. 47. Section 422.45, subsection 13, Code 1987, is  
35 amended to read as follows:

1 13. The gross receipts from the sale of prescription  
2 drugs, as defined in ~~section 155.3, subsection 10~~ chapter  
3 155A, if dispensed for human use or consumption by a  
4 registered pharmacist licensed under chapter ~~155~~ 155A, a  
5 physician and surgeon licensed under chapter 148, an osteopath  
6 licensed under chapter 150, an osteopathic physician and  
7 surgeon licensed under chapter 150A, a dentist licensed under  
8 chapter 153, or a podiatrist licensed under chapter 149.

9 Sec. 48. Section 514.5, unnumbered paragraph 3, is amended  
10 to read as follows:

11 Any pharmaceutical or optometric service corporation  
12 organized under the provisions of said chapter may enter into  
13 contracts for the rendering of pharmaceutical or optometric  
14 service to any of its subscribers. Membership in any  
15 pharmaceutical service corporation shall be open to all  
16 pharmacies licensed under chapter ~~155~~ 155A.

17 Sec. 49. Chapter 155, Code 1987, is repealed.

18 EXPLANATION

19 This bill repeals chapter 155, relating to the regulation  
20 of pharmacists and prescription drugs, and enacts a new  
21 chapter 155A in its place.

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*Original  
SF 4/16*

SSB # 124  
State Government

SENATE/HOUSE FILE \_\_\_\_\_

BY (PREFILED BOARD OF  
PHARMACY EXAMINERS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the regulation of pharmacists and pharmacies  
2 and to administration, dispensing, and distribution of certain  
3 drugs, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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**SUB COMMITTEE ASSIGNMENTS**

CHAIR: *Schwengels*

COMMITTEE: *State Gov.*

*2/19/87*

1 Section 1. NEW SECTION. 155A.1 SHORT TITLE.

2 This chapter may be cited as the "Iowa Pharmacy Practice  
3 Act."

4 Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION --  
5 PURPOSE.

6 1. The practice of pharmacy in this state is declared a  
7 professional practice affecting the public health, safety, and  
8 welfare and is subject to regulation and control in the public  
9 interest. It is further declared to be a matter of public  
10 interest and concern that the practice of pharmacy, as defined  
11 in this chapter, merit and receive the confidence of the  
12 public and that only qualified persons be permitted to engage  
13 in the practice of pharmacy in this state. This chapter shall  
14 be liberally construed to carry out these objects and  
15 purposes.

16 2. It is the purpose of this chapter to promote, preserve,  
17 and protect the public health, safety, and welfare through the  
18 effective regulation of the practice of pharmacy and the  
19 licensing of pharmacies, pharmacists, and others engaged in  
20 the sale, delivery, or distribution of prescription drugs and  
21 devices or other classes of drugs or devices which may be  
22 authorized.

23 Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

24 As used in this chapter, unless the context otherwise  
25 requires:

26 1. "Administer" means the direct application of a  
27 prescription drug, whether by injection, inhalation,  
28 ingestion, or any other means, to the body of a patient or  
29 research subject by one of the following:

- 30 a. A practitioner or the practitioner's authorized agent.  
31 b. The patient or research subject at the direction of a  
32 practitioner.

33 2. "Authorized agent" means an individual designated by a  
34 practitioner who is under the supervision of the practitioner  
35 and for whom the practitioner assumes legal responsibility.

- 1 3. "Board" means the board of pharmacy examiners.
- 2 4. "Brand name" or "trade name" means the registered  
3 trademark name given to a drug product or ingredient by its  
4 manufacturer, labeler, or distributor.
- 5 5. "College of pharmacy" means a school, university, or  
6 college of pharmacy that satisfies the accreditation standards  
7 of the American council on pharmaceutical education as adopted  
8 by the board, or that has degree requirements which meet the  
9 standards of accreditation adopted by the board.
- 10 6. "Controlled substance" means a drug substance,  
11 immediate precursor, or other substance listed in division II  
12 of chapter 204.
- 13 7. "Controlled substances Act" means chapter 204.
- 14 8. "Deliver" or "delivery" means the actual, constructive,  
15 or attempted transfer of a prescription drug or device or  
16 controlled substance from one person to another, whether or  
17 not for a consideration.
- 18 9. "Demonstrated bioavailability" means the rate and  
19 extent of absorption of a drug or drug ingredient from a  
20 specified dosage form, as reflected by the time-concentration  
21 curve of the drug or drug ingredient in the systemic  
22 circulation.
- 23 10. "Device" means an instrument, apparatus, implement,  
24 machine, contrivance, implant, in vitro reagent, or other  
25 similar or related article, including any component part or  
26 accessory, that is required under federal or state law to be  
27 ordered or prescribed by a practitioner.
- 28 11. "Dispense" means to deliver a prescription drug or  
29 controlled substance to an ultimate user or research subject  
30 by or pursuant to the lawful prescription drug order or  
31 medication order of a practitioner, including the prescribing,  
32 administering, packaging, labeling, or compounding necessary  
33 to prepare the substance for that delivery.
- 34 12. "Distribute" means the delivery of a prescription drug  
35 or device.

1 13. "Drug" means one or more of the following:

2 a. A substance recognized as a drug in the current  
3 official United States Pharmacopoeia and National Formulary,  
4 official Homeopathic Pharmacopoeia, or other drug compendium  
5 or any supplement to any of them.

6 b. A substance intended for use in the diagnosis, cure,  
7 mitigation, treatment, or prevention of disease in humans or  
8 other animals.

9 c. A substance, other than food, intended to affect the  
10 structure or any function of the body of humans or other  
11 animals.

12 d. A substance intended for use as a component of any  
13 substance specified in paragraph "a", "b", or "c".

14 e. A controlled substance.

15 14. "Drug product selection" means the act of selecting  
16 the source of supply of a drug product.

17 15. "Generic name" means the official title of a drug or  
18 drug ingredient published in the current official United  
19 States Pharmacopoeia and National Formulary, official  
20 Homeopathic Pharmacopoeia, or other drug compendium published  
21 by the United States pharmacopoeial convention or any  
22 supplement to any of them.

23 16. "Internship" means a practical experience program  
24 approved by the board for persons training to become  
25 pharmacists.

26 17. "Label" means written, printed, or graphic matter on  
27 the immediate container of a drug or device.

28 18. "Labeling" means the process of preparing and affixing  
29 a label including information required by federal or state law  
30 or regulation to a drug or device container. The term does  
31 not include the labeling by a manufacturer, packer, or  
32 distributor of a nonprescription drug or commercially packaged  
33 prescription drug or device or unit dose packaging.

34 19. "Medication order" means a written order from a  
35 practitioner or an oral order from a practitioner or the

1 practitioner's authorized agent for administration of a drug  
2 or device.

3 20. "Pharmacist" means a person licensed by the board to  
4 practice pharmacy.

5 21. "Pharmacist in charge" means the pharmacist designated  
6 on a pharmacy license as the pharmacist who has the authority  
7 and responsibility for the pharmacy's compliance with laws and  
8 rules pertaining to the practice of pharmacy.

9 22. "Pharmacist-intern" means an undergraduate student  
10 enrolled in the professional sequence of a college of pharmacy  
11 approved by the board, or a graduate of a college of pharmacy,  
12 who is participating in a board-approved internship under the  
13 supervision of a preceptor.

14 23. "Pharmacy" means a location where prescription drugs  
15 are compounded, dispensed, or sold by a pharmacist and where  
16 prescription drug orders are received or processed in  
17 accordance with the pharmacy laws.

18 24. "Pharmacy license" means a license issued to a  
19 pharmacy or other place where prescription drugs or devices  
20 are dispensed to the general public pursuant to a prescription  
21 drug order.

22 25. "Practice of pharmacy" is a dynamic patient-oriented  
23 health service that applies a scientific body of knowledge to  
24 improve and promote patient health by means of appropriate  
25 drug use and related drug therapy.

26 26. "Practitioner" means a physician, dentist, podiatrist,  
27 veterinarian, or other person licensed or registered to  
28 distribute or dispense a prescription drug or device in the  
29 course of professional practice in this state or a person  
30 licensed by another state in a health field in which, under  
31 Iowa law, licensees in this state may legally prescribe drugs.

32 27. "Preceptor" means a pharmacist in good standing  
33 licensed in this state to practice pharmacy and approved by  
34 the board to supervise and be responsible for the activities  
35 and functions of a pharmacist-intern in the internship

1 program.

2 28. "Prescription drug" means any of the following:

3 a. A substance for which federal or state law requires a  
4 prescription before it may be legally dispensed to the public.

5 b. A drug or device that under federal law is required,  
6 prior to being dispensed or delivered, to be labeled with  
7 either of the following statements:

8 (1) Caution: Federal law prohibits dispensing without a  
9 prescription.

10 (2) Caution: Federal law restricts this drug to use by or  
11 on the order of a licensed veterinarian.

12 c. A drug or device that is required by any applicable  
13 federal or state law or regulation to be dispensed on  
14 prescription only, or is restricted to use by a practitioner  
15 only.

16 29. "Prescription drug order" means a written order from a  
17 practitioner or an oral order from a practitioner or the  
18 practitioner's authorized agent who communicates the  
19 practitioner's instructions, to a pharmacist for a  
20 prescription drug or device to be dispensed.

21 30. "Proprietary medicine" means a nonnarcotic drug or  
22 device that may be sold without a prescription and that is  
23 labeled and packaged in compliance with applicable state or  
24 federal law.

25 31. "Ultimate user" means a person who has lawfully  
26 obtained and possesses a prescription drug or device for the  
27 person's own use or for the use of a member of the person's  
28 household or for administering to an animal owned by the  
29 person or by a member of the person's household.

30 32. "Unit dose packaging" means the packaging of  
31 individual doses of a drug in containers which preserve the  
32 identity and integrity of the drug from the point of packaging  
33 to administration and which are properly labeled pursuant to  
34 rules of the board.

35 33. "Wholesaler" means a person operating or maintaining,

1 either within or outside this state, a manufacturing plant,  
2 wholesale distribution center, wholesale business, or any  
3 other business in which prescription drugs, medicinal  
4 chemicals, medicines, or poisons are sold, manufactured,  
5 compounded, dispensed, stocked, exposed, or offered for sale  
6 at wholesale in this state. "Wholesaler" does not include  
7 those wholesalers who sell only proprietary medicines.

8 Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST  
9 UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION  
10 DRUGS -- EXCEPTIONS.

11 1. A person shall not dispense or distribute prescription  
12 drugs unless that person is a licensed pharmacist or is  
13 authorized by this chapter or section 147.107 to dispense or  
14 distribute prescription drugs.

15 2. Notwithstanding subsection 1, it is not unlawful for:

16 a. A manufacturer or wholesaler to distribute prescription  
17 drugs as provided by state or federal law.

18 b. A practitioner, licensed by the appropriate state  
19 board, to dispense prescription drugs to patients as incident  
20 to the practice of the profession, if the practitioner does  
21 not operate a pharmacy for the retailing of prescription  
22 drugs.

23 c. A practitioner, licensed by the appropriate state  
24 board, to administer drugs to patients. This chapter does not  
25 prevent a practitioner from delegating the administration of a  
26 prescription drug to a nurse, intern, or other qualified  
27 individual or, in the case of a veterinarian, to an orderly or  
28 assistant, under the practitioner's direction and supervision  
29 and pursuant to rules adopted by the board of pharmacy  
30 examiners.

31 d. A person to sell at retail a proprietary medicine, an  
32 insecticide, a fungicide, or a chemical used in the arts, if  
33 properly labeled.

34 e. A person to procure prescription drugs for lawful  
35 research, teaching, or testing and not for resale.

1     Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

2     Notwithstanding the existence or pursuit of any other  
3 remedy the board may, in the manner provided by law, maintain  
4 an action in the name of the state for injunction or other  
5 process against any person to restrain or prevent the  
6 establishment, conduct, management, or operation of a pharmacy  
7 or wholesaler, without license, or to prevent the violation of  
8 provisions of this chapter. Upon request of the board, the  
9 attorney general shall institute the proper proceedings and  
10 the county attorney, at the request of the attorney general,  
11 shall appear and prosecute the action when brought in the  
12 county attorney's county.

13     Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS -- PHARMACIST-  
14 INTERN REGISTRATION.

15     1. A program of pharmacist internships is established.  
16 Each internship is subject to approval by the board.

17     2. A person desiring to be a pharmacist-intern in this  
18 state shall apply to the board for registration. The  
19 application must be on a form prescribed by the board. A  
20 pharmacist-intern must be registered during internship  
21 training and thereafter pursuant to rules adopted by the  
22 board.

23     3. The board shall establish standards for registration  
24 and may deny, suspend, or revoke a pharmacist-intern  
25 registration for failure to meet the standards or for any  
26 violation of this chapter.

27     4. The board shall adopt rules in accordance with chapter  
28 17A on matters pertaining to registration standards,  
29 registration fees, conditions of registration, termination of  
30 registration, and approval of preceptors.

31     Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

32     A person shall not engage in the practice of pharmacy in  
33 this state without a license. The license shall be identified  
34 as a pharmacist license.

35     Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST

1 LICENSE.

2 To qualify for a pharmacist license, an applicant shall  
3 meet the following requirements:

4 1. Be a graduate of a school or college of pharmacy or of  
5 a department of pharmacy of a university recognized and  
6 approved by the board.

7 2. File proof, satisfactory to the board, of internship  
8 for a period of time fixed by the board.

9 3. Pass an examination prescribed by the board.

10 Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES --  
11 GRADUATES OF FOREIGN COLLEGES.

12 1. A college of pharmacy shall not be approved by the  
13 board unless the college is accredited by the American council  
14 on pharmaceutical education.

15 2. An applicant who is a graduate of a school or college  
16 of pharmacy located outside the United States but who is  
17 otherwise qualified to apply for a pharmacist license in this  
18 state may be deemed to have satisfied the requirements of  
19 section 155A.8, subsection 1, by verification to the board of  
20 the applicant's academic record and graduation and by meeting  
21 other requirements established by rule of the board. The  
22 board may require the applicant to pass an examination or  
23 examinations given or approved by the board to establish  
24 proficiency in English and equivalency of education as a  
25 prerequisite for taking the licensure examination required in  
26 section 155A.8, subsection 3.

27 Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST  
28 LICENSE.

29 A pharmacist shall publicly display the license to practice  
30 pharmacy and the license renewal certificate pursuant to rules  
31 adopted by the board.

32 Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST  
33 LICENSE.

34 The board shall specify by rule the procedures to be  
35 followed and the fee to be paid for a renewal certificate, and

1 penalties for late renewal or failure to renew a pharmacist  
2 license.

3 Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE --  
4 GROUNDS FOR DISCIPLINE.

5 The board shall refuse to issue a pharmacist license for  
6 failure to meet the requirements of section 155A.8. The board  
7 may refuse to issue or renew a license or may impose a fine,  
8 issue a reprimand, or revoke, restrict, cancel, or suspend a  
9 license, and may place a licensee on probation, if the board  
10 finds that the applicant or licensee has done any of the  
11 following:

12 1. Violated any provision of this chapter or any rules of  
13 the board adopted under this chapter.

14 2. Engaged in unethical conduct as that term is defined by  
15 rules of the board.

16 3. Violated any of the provisions for licensee discipline  
17 set forth in section 147.55.

18 4. Failed to keep and maintain records required by this  
19 chapter or failed to keep and maintain complete and accurate  
20 records of purchases and disposal of drugs listed in the  
21 controlled substances Act.

22 5. Violated any provision of the controlled substances Act  
23 or rules relating to that Act.

24 6. Aided or abetted an unlicensed individual to engage in  
25 the practice of pharmacy.

26 7. Refused an entry into any pharmacy for any inspection  
27 authorized by this chapter.

28 8. Violated the pharmacy or drug laws or rules of any  
29 other state of the United States while under the other state's  
30 jurisdiction.

31 9. Been convicted of an offense or subjected to a penalty  
32 or fine for violation of chapter 147, 203, 203A, 204, or the  
33 Federal Food, Drug and Cosmetic Act. A plea or verdict of  
34 guilty, or a conviction following a plea of nolo contendere,  
35 is deemed to be a conviction within the meaning of this

1 section.

2 10. Had a license to practice pharmacy issued by another  
3 state canceled, revoked, or suspended for conduct  
4 substantially equivalent to conduct described in subsections 1  
5 through 9. A certified copy of the record of the state taking  
6 action as set out above shall be conclusive evidence of the  
7 action taken by such state.

8 Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

9 1. A person shall not establish, conduct, or maintain a  
10 pharmacy in this state without a license. The license shall  
11 be identified as a pharmacy license.

12 2. The board shall specify by rule the licensing  
13 procedures to be followed, including specifications of forms  
14 for use in applying for a pharmacy license and fees for filing  
15 an application.

16 3. The board may issue a special or limited-use pharmacy  
17 license based upon special conditions of use imposed pursuant  
18 to rules adopted by the board for cases in which the board  
19 determines that certain requirements may be waived.

20 4. To qualify for a pharmacy license, the applicant shall  
21 submit to the board a license fee as determined by the board  
22 and a completed application on a form prescribed by the board  
23 that shall include the following information and be given  
24 under oath:

25 a. Ownership.

26 b. Location.

27 c. The license number of each pharmacist employed by the  
28 pharmacy at the time of application.

29 d. The trade or corporate name of the pharmacy.

30 e. The name of the pharmacist in charge, who has the  
31 authority and responsibility for the pharmacy's compliance  
32 with laws and rules pertaining to the practice of pharmacy.

33 5. A person who falsely makes the affidavit prescribed in  
34 subsection 4 is subject to all penalties prescribed for making  
35 a false affidavit.

1 6. A pharmacy license issued by the board under this  
2 chapter shall be issued in the name of the pharmacist in  
3 charge and is not transferable or assignable.

4 7. The board shall specify by rule minimum standards for  
5 professional responsibility in the conduct of a pharmacy.

6 8. A separate license is required for each principal place  
7 of practice.

8 9. The license of the pharmacy shall be displayed.

9 Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY  
10 LICENSE.

11 The board shall specify by rule the procedures to be  
12 followed and the fee to be paid for a renewal certificate, and  
13 the penalties for late renewal or failure to renew a pharmacy  
14 license.

15 Sec. 15. NEW SECTION. 155A.15 PHARMACIES -- LICENSE  
16 REQUIRED -- DISCIPLINE, VIOLATIONS, AND PENALTIES.

17 1. A pharmacy subject to section 155A.13 shall not be  
18 operated until a license or renewal certificate has been  
19 issued to the pharmacy by the board.

20 2. The board shall refuse to issue a pharmacy license for  
21 failure to meet the requirements of section 155A.13. The  
22 board may refuse to issue or renew a license or may impose a  
23 fine, issue a reprimand, or revoke, restrict, cancel, or  
24 suspend a license, and may place a licensee on probation, if  
25 the board finds that the applicant or licensee has done any of  
26 the following:

27 a. Been convicted of a felony or a misdemeanor involving  
28 moral turpitude, or if the applicant is an association, joint  
29 stock company, partnership, or corporation, that a managing  
30 officer has been convicted of a felony or a misdemeanor  
31 involving moral turpitude, under the law of this state,  
32 another state, or the United States.

33 b. Advertised any prescription drugs or devices in a  
34 deceitful, misleading, or fraudulent manner.

35 c. Violated any provision of this chapter or any rule

1 adopted under this chapter or that any owner or employee of  
2 the pharmacy has violated any provision of this chapter or any  
3 rule adopted under this chapter.

4 d. Delivered without legal authorization prescription  
5 drugs or devices to a person other than one of the following:

6 (1) A pharmacy licensed by the board.

7 (2) A practitioner.

8 (3) A person who procures prescription drugs or devices  
9 for the purpose of lawful research, teaching, or testing, and  
10 not for resale.

11 (4) A manufacturer or wholesaler licensed by the board.

12 However, this chapter does not prohibit a pharmacy from furnishing  
13 a prescription drug or device to a licensed health care facility  
14 for storage in a secured emergency pharmaceutical supplies  
15 container maintained within the facility in accordance with  
16 regulations of the Iowa department of public health.

17 e. Allowed an employee who is not a licensed pharmacist  
18 to practice pharmacy.

19 f. Delivered mislabeled prescription or nonprescription  
20 drugs.

21 g. Failed to engage in or ceased to engage in the business  
22 described in the application for a license.

23 h. Failed to keep and maintain records as required by  
24 this chapter, the controlled substances Act,  
25 or rules adopted under the controlled substances Act.

26 i. Failed to establish effective controls against diversion  
27 of prescription drugs into other than legitimate medical,  
28 scientific, or industrial channels as provided by this chapter  
29 and other Iowa or federal laws or rules.

30 Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

31 Unless otherwise provided, any disciplinary action taken  
32 by the board under section 155A.12 or 155A.15 is governed  
33 by chapter 17A and the rules of practice and procedure  
34 before the board.

35 Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

1 A person shall not establish, conduct or maintain a  
2 wholesale drug business as defined in this chapter without a  
3 license. The license shall be identified as a wholesale  
4 drug license.

5 Sec. 18. NEW SECTION. 155A.18 PENALTIES.

6 The board shall impose penalties as allowed under section  
7 258A.3. In addition, civil penalties not to exceed twenty-five  
8 thousand dollars, may be imposed.

9 Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

10 1. A pharmacy shall report in writing to the board,  
11 pursuant to its rules, the following:

12 a. Permanent closing.

13 b. Change of ownership.

14 c. Change of location.

15 d. Change of pharmacist in charge.

16 e. The sale or transfer of prescription drugs, including  
17 controlled substances, on the permanent closing or change  
18 of ownership of the pharmacy.

19 f. Out-of-state purchases of controlled substances.

20 g. Theft or significant loss of any controlled substance  
21 on discovery of the theft or loss.

22 h. Disasters, accidents, and emergencies that may affect  
23 the strength, purity, or labeling of drugs, medications,  
24 devices, or other materials used in the diagnosis or the  
25 treatment of injury, illness, and disease.

26 2. A pharmacist shall report in writing to the board  
27 within ten days a change of address or place of employment.

28 Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND  
29 TITLES -- IMPERSONATION.

30 1. A person shall not display in or on any store or place  
31 of business the word or words: "apothecary", "drug", "drug  
32 store", or "pharmacy", either in English or any other language,  
33 any other word or combination of words of the same or similar  
34 meaning, or any graphic representation that would mislead  
35 the public unless it is a pharmacy or drug wholesaler licensed

1 under this chapter.

2 2. A person shall not do any of the following:

3 a. Impersonate before the board an applicant applying  
4 for licensing under this chapter.

5 b. Impersonate an Iowa licensed pharmacist.

6 c. Use the title pharmacist, druggist, apothecary, or  
7 words of similar intent unless the person is licensed to  
8 practice pharmacy.

9 3. A pharmacist shall not utilize the title "Dr." or  
10 "Doctor" if that pharmacist has not acquired the doctor of  
11 pharmacy degree from an approved college of  
12 pharmacy or the doctor of philosophy degree in an  
13 area related to pharmacy.

14 Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF  
15 PRESCRIPTION DRUG -- PENALTY.

16 1. A person found in possession of a drug limited to  
17 dispensation by prescription, unless the drug was so lawfully  
18 dispensed, commits a serious misdemeanor.

19 2. Subsection 1 does not apply to a licensed pharmacy,  
20 licensed wholesaler, physician, veterinarian, dentist,  
21 podiatrist, therapeutically certified optometrist, a nurse  
22 acting under the direction of a physician, or the board of  
23 pharmacy examiners, its officers, agents, inspectors, and  
24 representatives, nor to a common carrier or messenger when  
25 transporting the drug in the same unbroken package in which  
26 the drug was delivered to that person for transportation.

27 Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.

28 A person who violates any of the provisions of this chapter  
29 or any chapter pertaining to or affecting the practice of  
30 pharmacy for which a specific penalty is not provided  
31 commits a simple misdemeanor.

32 Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.

33 A person shall not:

34 1. Obtain or attempt to obtain a prescription drug or  
35 procure or attempt to procure the administration of a prescription

1 drug by:

2 a. Fraud, deceit, misrepresentation, or subterfuge.

3 b. Forgery or alteration of a prescription or of any written  
4 order.

5 c. Concealment of a material fact.

6 d. Use of a false name or the giving of a false address.

7 2. Willfully make a false statement in any prescription,  
8 report, or record required by this chapter.

9 3. For the purpose of obtaining a prescription drug, falsely  
10 assume the title of or claim to be a manufacturer, wholesaler,  
11 pharmacist, pharmacy owner, physician, dentist, podiatrist,  
12 veterinarian, or other authorized person.

13 4. Make or utter any false or forged prescription or  
14 written order.

15 5. Affix any false or forged label to a package or receptacle  
16 containing prescription drugs.

17 Information communicated to a physician in an unlawful effort  
18 to procure a prescription drug or to procure the administration  
19 of a prescription drug shall not be deemed a privileged  
20 communication.

21 Sec. 24. NEW SECTION. 155A.24 PENALTIES.

22 A person who violates a provision of section 155A.23 or who  
23 sells or offers for sale, gives away, or administers to another  
24 person any prescription drug commits a public offense and  
25 shall be punished as follows:

26 If the prescription drug is a controlled substance,  
27 the person shall be punished pursuant  
28 to section 204.401, subsection 1, and section 204.411.

29 If the  
30 prescription drug is not a controlled substance, the person, upon  
31 conviction of a first offense, is guilty of a serious misdemeanor.  
32 For a second offense, or if in case of a first offense  
33 the offender previously has  
34 been convicted of any violation of the laws of the United  
35 States or of any state, territory, or district thereof

1 relating to prescription drugs, the offender is guilty of an  
2 aggravated misdemeanor. For a third or subsequent offense  
3 or if in the case of a second offense  
4 the offender previously has been convicted two or  
5 more times in the aggregate of any violation of the laws of the  
6 United States or of any state, territory, or district thereof  
7 relating to prescription drugs, the offender is guilty of a  
8 class "D" felony.

9 A person who violates any provision of this chapter by selling,  
10 giving away, or administering any prescription drug to a minor  
11 is guilty of a class "C" felony.

12 This section does not prevent a licensed practitioner of  
13 medicine, dentistry, podiatry, nursing, veterinary medicine,  
14 or pharmacy from acts necessary in the ethical and legal  
15 performance of the practitioner's profession.

16 Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

17 In any complaint, information, or indictment, and in any  
18 action or proceeding brought for the enforcement of any provisions  
19 of this chapter, it shall not be necessary to negate any  
20 exception, excuse, proviso, or exemption contained in this  
21 chapter, and the burden of proof of any such exception,  
22 excuse, proviso, or exemption shall be upon the defendant.

23 Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT -- AGENTS  
24 AS PEACE OFFICERS.

25 The board of pharmacy examiners, its  
26 officers, agents, inspectors, and representatives, and all  
27 peace officers within the state, and all county attorneys shall  
28 enforce all provisions of this chapter, except those specifically  
29 delegated, and shall cooperate with all agencies charged with the  
30 enforcement of the laws of the United States, of this state,  
31 and of all other states relating to prescription drugs. Officers,  
32 agents, inspectors, and representatives of the board of pharmacy  
33 examiners shall have the powers and status of peace officers when  
34 enforcing the provisions of this chapter.

35 Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR PRESCRIPTION.

- 1 Each prescription drug order issued or filled in this state:  
2 1. If written, shall contain:  
3 a. The date of issue.  
4 b. The name and address of the patient for whom, or the  
5 owner of the animal for which, the drug is dispensed.  
6 c. The name, strength, and quantity of the drug, medicine,  
7 or device prescribed.  
8 d. The directions for use of the drug, medicine, or device  
9 prescribed.  
10 e. The name, address, and signature of the practitioner issuing  
11 the prescription.  
12 f. The federal drug enforcement administration  
13 number, if required under chapter 204.  
14 2. If oral, the practitioner issuing the prescription shall  
15 furnish the same information required for a written prescription,  
16 except for the written signature of the practitioner.  
17 Upon receipt of an oral prescription, the pharmacist shall promptly  
18 reduce the oral prescription to a written format by recording the  
19 information required in a written prescription.  
20 Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION DRUGS.  
21 The label of any drug or device sold and dispensed on the  
22 prescription of a practitioner shall be in compliance with rules  
23 adopted by the board.  
24 Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.  
25 1. Except as specified in subsection 2, a prescription for  
26 any prescription drug or device which is not a controlled  
27 substance shall not be filled or  
28 refilled more than one year after the date on which the  
29 prescription was issued and a prescription which is authorized  
30 to be refilled shall not be refilled more than eleven times.  
31 2. A pharmacist may exercise professional judgment by  
32 refilling a prescription without prescriber authorization if  
33 both of the following are true:  
34 a. Failure to refill the prescription might result in an  
35 interruption of therapeutic regimen or create patient suffering.

1 b. The pharmacist informs the patient or the patient's  
2 representative at the time of dispensing, and the practitioner  
3 at the earliest convenience that prescriber reauthorization  
4 is required.

5 Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION  
6 ORDERS.

7 Prescription drug orders issued by out-of-state practitioners  
8 who would be authorized to prescribe if they were practicing  
9 in Iowa may be filled by licensed pharmacists operating in  
10 licensed Iowa pharmacies.

11 Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

12 A licensed pharmacy in this state shall maintain a reference  
13 library pursuant to rules of the board.

14 Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT  
15 SELECTION -- RESTRICTIONS.

16 1. If an authorized prescriber  
17 prescribes, either in writing or orally, a drug by its brand  
18 or trade name,  
19 the pharmacist may exercise professional  
20 judgment in the economic interest of the patient  
21 by selecting a drug product with the same generic name and  
22 demonstrated bioavailability as  
23 the one prescribed for dispensing and sale  
24 to the patient. If the pharmacist does so, the pharmacist  
25 shall inform the patient  
26 of the savings which the patient will obtain as a result of  
27 the drug product selection  
28 and pass on to the patient  
29 no less than fifty percent of the difference  
30 in actual acquisition costs between the drug prescribed and  
31 the drug substituted.

32 2. The pharmacist shall not exercise the drug  
33 product selection described in this section if either of the  
34 following is true:

35 a. The prescriber specifically indicates that no

1 drug product selection shall be made.

2 b. The person presenting the prescription indicates  
3 that only the specific drug product prescribed should be  
4 dispensed.

5 3. If selection of a generically equivalent product  
6 is made under this section, the pharmacist making the selection  
7 shall note that fact and the name of the manufacturer of the  
8 selected drug on the prescription presented by the patient  
9 or the patient's adult representative.

10 Sec. 33. NEW SECTION. 155A.33 DELEGATION OF NONJUDGMENTAL  
11 FUNCTIONS.

12 A pharmacist may delegate nonjudgmental dispensing functions  
13 to assistants, but only if the pharmacist is physically  
14 present to verify the accuracy and completeness of the patient's  
15 prescription prior to delivery to the patient or the patient's  
16 representative.

17 Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

18 A pharmacist may transfer a valid prescription order to another  
19 pharmacist pursuant to rules adopted by the board.

20 Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION RECORDS.

21 A licensed pharmacy shall maintain patient medication records  
22 in accordance with rules adopted by the board.

23 Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY SYSTEMS.

24 Drugs dispensed utilizing unit dose packaging shall comply  
25 with labeling and packaging requirements in accordance  
26 with rules adopted by  
27 the board.

28 Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL  
29 RESPONSIBILITY FOR BOARD EMPLOYEES.

30 1. The board shall adopt a code of professional responsibility  
31 to regulate the conduct of board employees responsible for  
32 inspections and surveys of pharmacies.

33 2. The code shall contain a procedure to be followed by  
34 personnel of the board in all of the following:

35 a. On entering a pharmacy.

1 b. During inspection of the pharmacy.

2 c. During the exit conference.

3 3. The code shall contain standards of conduct that personnel  
4 of the board are to follow in dealing with the staff and  
5 management of the pharmacy and the general public.

6 4. The board shall establish a procedure for receiving and  
7 investigating complaints of violations of this code. The board  
8 shall investigate all complaints of violations. The results of  
9 an investigation shall be forwarded to the complainant.

10 5. The board may adopt rules establishing sanctions for  
11 violations of this code of professional responsibility.

12 Sec. 38. Section 106.12, subsection 2, Code 1987, is  
13 amended to read as follows:

14 2. No A person shall not operate any vessel, or manipulate  
15 any water skis, surfboard or similar device while under the  
16 influence of an alcoholic beverage, marijuana, a narcotic,  
17 hypnotic or other drug, or any combination of these  
18 substances. However, this subsection ~~shall~~ does not apply to  
19 a person operating any vessel or manipulating any water skis,  
20 surfboard or similar device while under the influence of  
21 marijuana, or a narcotic, hypnotic or other drug if the  
22 substances were prescribed for the person and have been taken  
23 under the prescription and in accordance with the directions  
24 of a medical practitioner as defined in ~~section-155-37~~  
25 ~~subsection-11~~ chapter 155A, provided there is no evidence of  
26 the consumption of alcohol and further provided the medical  
27 practitioner has not directed the person to refrain from  
28 operating a motor vehicle, any vessel or from manipulating any  
29 water skis, surfboard or similar device.

30 Sec. 39. Section 135.61, subsection 10, Code 1987, is  
31 amended to read as follows:

32 10. "Health care provider" means a person licensed or  
33 certified under chapter 147, 148, 148A, 148C, 149, 150, 150A,  
34 151, 152, 153, 154, 154B, or ~~155~~ 155A to provide in this state  
35 professional health care service to an individual during that

1 individual's medical care, treatment or confinement.

2 Sec. 40. Section 152.1, subsection 1, paragraph a, Code  
3 1987, is amended to read as follows:

4 a. The practice of medicine and surgery, as defined in  
5 chapter 148, the osteopathic practice, as defined in chapter  
6 150, the practice of osteopathic medicine and surgery, as  
7 defined in chapter 150A, or the practice of pharmacy as  
8 defined in chapter ~~155~~ 155A, except practices which are  
9 recognized by the medical and nursing professions and approved  
10 by the board as proper to be performed by a registered nurse.

11 Sec. 41. Section 166.3, Code 1987, is amended to read as  
12 follows:

13 166.3 PERMIT TO MANUFACTURE OR SELL.

14 Every person, before engaging as a manufacturer of, or  
15 dealer in, biological products shall obtain from the  
16 department a permit for that purpose and shall be required to  
17 have a separate permit for each place of business. No A  
18 pharmacy licensed under chapter ~~155~~ 155A shall not be required  
19 to obtain a dealer's permit to deal in biological products.

20 Sec. 42. Section 203A.19, unnumbered paragraph 1, Code  
21 1987, is amended to read as follows:

22 Any prescription drug, as defined in ~~section-155-37~~  
23 ~~subsection-10~~ chapter 155A, is misbranded unless:

24 Sec. 43. Section 204.308, subsection 3, Code 1987, is  
25 amended to read as follows:

26 3. Except when dispensed directly by a practitioner, other  
27 than a pharmacy, to an ultimate user, a controlled substance  
28 included in schedule III or IV, which is a prescription drug  
29 as determined under ~~section-155-37-subsections-9-and-10~~  
30 chapter 155A, shall not be dispensed without a written or oral  
31 prescription of a practitioner. The prescription may not be  
32 filled or refilled more than six months after the date thereof  
33 or be refilled more than five times, unless renewed by the  
34 practitioner.

35 Sec. 44. Section 258A.5, subsection 2, paragraph c, Code

1 1987, is amended to read as follows:

2 c. Shall state whether the procedures are an alternative  
3 to or an addition to the procedures stated in sections 114.22,  
4 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to  
5 148.9, 153.23 to 153.30, 153.33, and 154A.23, ~~and 155-14 to~~  
6 ~~155-16.~~

7 Sec. 45. Section 321J.2, subsection 6, Code 1987, is  
8 amended to read as follows:

9 6. This section does not apply to a person operating a  
10 motor vehicle while under the influence of a drug if the  
11 substance was prescribed for the person and was taken under  
12 the prescription and in accordance with the directions of a  
13 medical practitioner as defined in ~~section 155-37-subsection~~  
14 ~~11~~ chapter 155A, if there is no evidence of the consumption of  
15 alcohol and the medical practitioner had not directed the  
16 person to refrain from operating a motor vehicle.

17 Sec. 46. Section 422.45, subsection 13, Code 1987, is  
18 amended to read as follows:

19 13. The gross receipts from the sale of prescription  
20 drugs, as defined in ~~section 155-37-subsection 10~~ chapter  
21 155A, if dispensed for human use or consumption by a  
22 registered pharmacist licensed under chapter ~~155~~ 155A, a  
23 physician and surgeon licensed under chapter 148, an osteopath  
24 licensed under chapter 150, an osteopathic physician and  
25 surgeon licensed under chapter 150A, a dentist licensed under  
26 chapter 153, or a podiatrist licensed under chapter 149.

27 Sec. 47. Section 514.5, unnumbered paragraph 3, is amended  
28 to read as follows:

29 Any pharmaceutical or optometric service corporation  
30 organized under the provisions of said chapter may enter into  
31 contracts for the rendering of pharmaceutical or optometric  
32 service to any of its subscribers. Membership in any  
33 pharmaceutical service corporation shall be open to all  
34 pharmacies licensed under chapter ~~155~~ 155A.

35 Sec. 48. Chapter 155, Code 1987, is repealed.

EXPLANATION

1  
2 This bill repeals chapter 155, relating to the regulation  
3 of pharmacists and prescription drugs, and enacts a new  
4 chapter 155A in its place.

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