~~the influencing of the decision of the members of a legislative committee or a subcommittee. "Lobbying service" does not include the activities of a federal, state, or local government official or employee acting within the course of the official's or employee's duties or a representative of the news media engaged only in the reporting and dissemination of news and editorials.~~

Sec. 9. Section 422.45, subsection 19, Code 1987, is amended to read as follows:

19. The gross receipts from the sale of property which is a container, label, carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing.

Sec. 10. Section 423.1, subsection 3, paragraph b, subparagraph (2), Code 1987, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail ~~and will be subject to the tax under section 422.43 or this chapter when sold~~ or is intended to be used by the retailer or another in the remanufacturing of a like item.

Sec. 11. Section 423.1, subsection 10, Code 1987, is amended to read as follows:

10. Definitions contained in section 422.42 shall apply to ~~the provisions of~~ this chapter according to their context. The use in this state of building materials, supplies, or equipment, the sale or use of which is not treated as a retail sale or a sale at retail under section 422.42, subsections 9 and 10, shall not be subject to tax under this chapter.

Sec. 12. Sections 1, 2, and 3 of the Act are retroactive to January 1, 1987 for tax years beginning on or after that date.

Sec. 13. Section 4 of this Act is effective January 1, 1988 for tax years beginning on or after that date.

Approved June 5, 1987

CHAPTER 215

PHARMACY, PHARMACISTS, AND DRUG REGULATION

H.F. 594

AN ACT relating to the regulation of pharmacists and pharmacies and to administration, dispensing, and distribution of certain drugs, and providing penalties.

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

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

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

Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION — PURPOSE.

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

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

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

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

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

a. A practitioner or the practitioner's authorized agent.

b. The patient or research subject at the direction of a practitioner.

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

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

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

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

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

7. "Controlled substances Act" means chapter 204.

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

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

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

11. "Dispense" means to deliver a prescription drug or controlled substance to an ultimate user or research subject by or pursuant to the lawful prescription drug order or medication order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

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

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

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

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

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

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

e. A controlled substance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33. "Wholesaler" means a person operating or maintaining, either within or outside this state, a manufacturing plant, wholesale distribution center, wholesale business, or any other

business in which prescription drugs, medicinal chemicals, medicines, or poisons are sold, manufactured, compounded, dispensed, stocked, exposed, or offered for sale at wholesale in this state. "Wholesaler" does not include those wholesalers who sell only proprietary medicines.

34. "Wholesale salesperson" or "manufacturer's representative" means an individual who takes purchase orders on behalf of a wholesaler for prescription drugs, medicinal chemicals, medicines, or poisons. "Wholesale salesperson" or "manufacturer's representative" does not include an individual who sells only proprietary medicines.

Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION DRUGS — EXCEPTIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Pass an examination prescribed by the board.

Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES — GRADUATES OF FOREIGN COLLEGES.

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

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

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

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

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

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

Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE — GROUNDS FOR DISCIPLINE.

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

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

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

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

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

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

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

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

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

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

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

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

1. A person shall not establish, conduct, or maintain a pharmacy in this state without a license. The license shall be identified as a pharmacy license. A pharmacy license issued pursuant to subsection 4 may be further identified as a hospital pharmacy license.

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

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

4. The board shall adopt rules for the issuance of a hospital pharmacy license to a hospital which provides pharmacy services for its own use. The rules shall:

a. Recognize the special needs and circumstances of hospital pharmacies.

b. Give due consideration to the scope of pharmacy services that the hospital's medical staff and governing board elect to provide for the hospital's own use.

c. Consider the size, location, personnel, and financial needs of the hospital.

d. Give recognition to the standards of the joint commission on accreditation of hospitals and the American osteopathic association and to the conditions of participation under medicare.

To the maximum extent possible, the board shall coordinate the rules with the standards and conditions described in paragraph "d" and shall coordinate its inspections of hospital pharmacies with the medicare surveys of the department of inspections and appeals and with the board's inspections with respect to controlled substances conducted under contract with the federal government.

A hospital which provides pharmacy services by contracting with a licensed pharmacy is not required to obtain a hospital pharmacy license or a general pharmacy license.

5. A hospital which elects to operate a pharmacy for other than its own use is subject to the requirements for a general pharmacy license. If the hospital's pharmacy services for other than its own use are special or limited, the board may issue a special or limited-use pharmacy license pursuant to subsection 3.

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

a. Ownership.

b. Location.

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

d. The trade or corporate name of the pharmacy.

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

7. A person who falsely makes the affidavit prescribed in subsection 6 is subject to all penalties prescribed for making a false affidavit.

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

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

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

11. The license of the pharmacy shall be displayed.

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

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

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

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

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

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

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

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

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

(1) A pharmacy licensed by the board.

(2) A practitioner.

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

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

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

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

f. Delivered mislabeled prescription or nonprescription drugs.

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

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

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

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

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

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

A person shall not establish, conduct or maintain a wholesale drug business as defined in this chapter without a license. The license shall be identified as a wholesale drug license. This section does not apply to a manufacturer's representative acting in the usual course of business or employment as a manufacturer's representative.

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

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

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

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

a. Permanent closing.
b. Change of ownership.
c. Change of location.
d. Change of pharmacist in charge.
e. The sale or transfer of prescription drugs, including controlled substances, on the permanent closing or change of ownership of the pharmacy.
f. Out-of-state purchases of controlled substances.
g. Theft or significant loss of any controlled substance on discovery of the theft or loss.
h. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.
2. A pharmacist shall report in writing to the board within ten days a change of address or place of employment.

Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND TITLES — IMPERSONATION.
1. A person shall not display in or on any store or place of business the word or words: "apothecary", "drug", "drug store", or "pharmacy", either in English or any other language, any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead the public unless it is a pharmacy or drug wholesaler licensed under this chapter.
2. A person shall not do any of the following:
a. Impersonate before the board an applicant applying for licensing under this chapter.
b. Impersonate an Iowa licensed pharmacist.
c. Use the title pharmacist, druggist, apothecary, or words of similar intent unless the person is licensed to practice pharmacy.
3. A pharmacist shall not utilize the title "Dr." or "Doctor" if that pharmacist has not acquired the doctor of pharmacy degree from an approved college of pharmacy or the doctor of philosophy degree in an area related to pharmacy.

Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF PRESCRIPTION DRUG — PENALTY.
1. A person found in possession of a drug limited to dispensation by prescription, unless the drug was so lawfully dispensed, commits a serious misdemeanor.
2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist, therapeutically certified optometrist, a nurse acting under the direction of a physician, or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier, manufacturer's representative, or messenger when transporting the drug in the same unbroken package in which the drug was delivered to that person for transportation.

Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.
A person who violates any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty is not provided commits a simple misdemeanor.

Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.
A person shall not:
1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a prescription drug by:
a. Fraud, deceit, misrepresentation, or subterfuge.
b. Forgery or alteration of a prescription or of any written order.
c. Concealment of a material fact.
d. Use of a false name or the giving of a false address.

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

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

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

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

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

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

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

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

If the prescription drug is not a controlled substance, the person, upon conviction of a first offense, is guilty of a serious misdemeanor. For a second offense, or if in case of a first offense the offender previously has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender is guilty of an aggravated misdemeanor. For a third or subsequent offense or if in the case of a second offense the offender previously has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender is guilty of a class "D" felony.

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

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

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

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

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

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

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

Each prescription drug order issued or filled in this state:

1. If written, shall contain:

a. The date of issue.

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

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

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

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

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

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

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

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

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

1. Except as specified in subsection 2, a prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than eleven times.

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

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

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

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

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

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

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

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

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

Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT SELECTION — RESTRICTIONS.

1. If an authorized prescriber prescribes, either in writing or orally, a drug by its brand or trade name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale. If the pharmacist exercises drug product selection, the pharmacist shall inform the patient of the savings which the patient will obtain as a result of the drug product selection and pass on to the patient no less than fifty percent of the difference in actual acquisition costs between the drug prescribed and the drug substituted.

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

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

b. The person presenting the prescription indicates that only the specific drug product prescribed should be dispensed. However, this paragraph does not apply if the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A.

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

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

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

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

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

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

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

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

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

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

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

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

a. On entering a pharmacy.

b. During inspection of the pharmacy.

c. During the exit conference.

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

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

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

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

2. ~~No~~ A person shall not operate any vessel, or manipulate any water skis, surfboard or similar device while under the influence of an alcoholic beverage, marijuana, a narcotic, hypnotic or other drug, or any combination of these substances. However, this subsection ~~shall~~ does not apply to a person operating any vessel or manipulating any water skis, surfboard or similar device while under the influence of marijuana, or a narcotic, hypnotic or other drug if the substances were prescribed for the person and have been taken under the prescription and in accordance with the directions of a medical practitioner as defined in ~~section 155.3, subsection 11~~ chapter 155A, provided there is no evidence of the consumption of alcohol and further provided the medical practitioner has not directed the person to refrain from operating a motor vehicle, any vessel or from manipulating any water skis, surfboard or similar device.

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

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

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

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

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

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

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

166.3 PERMIT TO MANUFACTURE OR SELL.

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

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

Any prescription drug, as defined in ~~section 155.3, subsection 10~~ chapter 155A, is misbranded unless:

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

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under ~~section 155.3, subsections 9 and 10~~ chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

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

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 114.22, 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to 148.9, 153.23 to 153.30, 153.33, and 154A.23~~, and 155.14 to 155.16~~.

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

6. This section does not apply to a person operating a motor vehicle while under the influence of a drug if the substance was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in ~~section 155.3, subsection 11~~ chapter 155A, if there is no evidence of the consumption of alcohol and the medical practitioner had not directed the person to refrain from operating a motor vehicle.

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

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

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

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

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

Sec. 50. The provisions of this Act requiring that hospital pharmacies be licensed shall not take effect until January 1, 1988.

Approved June 5, 1987

CHAPTER 216

ACQUIRED IMMUNE DEFICIENCY SYNDROME

H.F. 310

AN ACT relating to acquired immune deficiency syndrome including the establishment of a central registry for victims and screening and testing procedures.

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

Section 1. NEW SECTION. 139.34 ACQUIRED IMMUNE DEFICIENCY SYNDROME — CENTRAL REGISTRY.

The Iowa department of public health shall establish and maintain a central registry of persons diagnosed as having contracted acquired immune deficiency syndrome in order to facilitate the provision of appropriate services to those persons. The department shall maintain the confidential nature of the information collected in a manner which prevents the identification of persons who are victims of acquired immune deficiency syndrome. Access to the registry shall be limited to departmental personnel having a need for such information in connection with their official duties.

Sec. 2. NEW SECTION. 139.35 ACQUIRED IMMUNE DEFICIENCY SYNDROME — CONFIDENTIAL SCREENING AND TESTING.

The Iowa department of public health shall provide confidential screening and confirmatory testing at the request of persons at high risk of contracting acquired immune deficiency syndrome. For the purposes of this section, "persons at high risk" means homosexuals, bisexuals, and intravenous drug users. The screening and testing procedures may be provided by contract with alternate screening sites, private physicians, or a clinical laboratory for the purpose of providing these services.

A person seeking and undergoing acquired immune deficiency syndrome screening and testing procedures shall not be reported or have the person's identity revealed in any way without the express written consent of the person. The department shall provide instruction to personnel providing the screening and testing regarding proper procedure, including but not limited to prescreening and pretesting counseling techniques. The department shall, in association with qualified counselors from public and private agencies, facilitate posttest counseling of a person with positive or negative test results, and for diagnosed acquired immune deficiency syndrome cases. The department shall also promote public education efforts regarding acquired immune deficiency syndrome and shall publicize the services and confidential nature of the services provided in order to encourage persons at risk of contracting acquired immune deficiency syndrome to undergo screening and testing procedures.

Approved June 6, 1987