CHAPTER 1138

PRESCRIPTION DRUG REGULATION AND REPORTING, SUBSTANCE ABUSE PREVENTION AND TREATMENT, AND DRUG OVERDOSE REPORTING IMMUNITY

H.F. 2377

AN ACT relating to the regulation of certain substances, including the regulation of the practice of pharmacy, providing penalties, and including effective date provisions.

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

DIVISION I
REGULATION OF THE PRESCRIPTION MONITORING PROGRAM

Section 1. Section 124.550, subsection 2, Code 2018, is amended to read as follows:

2. *"Prescribing practitioner"* means a practitioner who has prescribed or is contemplating the authorization of a prescription for the patient about whom information is requested. *"Prescribing practitioner"* does not include a licensed veterinarian.

Sec. 2. Section 124.550, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 4. *"Program"* means the information program for drug prescribing and dispensing.

Sec. 3. Section 124.551, subsection 2, Code 2018, is amended to read as follows:

2. *a.* The program shall collect from pharmacies dispensing information for controlled substances identified pursuant to section 124.554, subsection 1, paragraph *"g"*, and from first responders as defined in section 147A.1, subsection 7, with the exception of emergency medical care providers as defined in section 147A.1, subsection 4, administration information for opioid antagonists. The department of public health shall provide information for the administration of opioid antagonists to the board as prescribed by rule for emergency medical care providers as defined in section 147A.1, subsection 4. The board shall adopt rules requiring the following information to be provided regarding the administration of opioid antagonists:

(1) Patient identification.

(2) Identification of the person administering opioid antagonists.

(3) The date of administration.

(4) The quantity of opioid antagonists administered.

b. The information collected shall be used by prescribing practitioners and pharmacists on a need-to-know basis for purposes of improving patient health care by facilitating early identification of patients who may be at risk for addiction, or who may be using, abusing, or diverting drugs for unlawful or otherwise unauthorized purposes at risk to themselves and others, or who may be appropriately using controlled substances lawfully prescribed for them but unknown to the practitioner.

Sec. 4. NEW SECTION. **124.551A Prescribing practitioner program registration.**

A prescribing practitioner shall register for the program at the same time the prescribing practitioner applies to the board to register or renews registration to prescribe controlled substances as required by the board. Once the prescribing practitioner registers for the program, the prescribing practitioner or the prescribing practitioner's designated agent shall utilize the program database prior to issuing an opioid prescription as prescribed by rules adopted by the prescribing practitioner's licensing board to assist the prescribing practitioner in determining appropriate treatment options and to improve the quality of patient care. A prescribing practitioner shall not be required to utilize the program database to assist in the treatment of a patient receiving inpatient hospice care or long-term residential facility patient care.

Sec. 5. Section 124.552, Code 2018, is amended to read as follows:

124.552 Information reporting.

1. ~~Each~~ Unless otherwise prohibited by federal or state law, each licensed pharmacy that dispenses controlled substances identified pursuant to section 124.554, subsection 1, paragraph *"g"*, to patients in the state, ~~and~~ each licensed pharmacy located in the state that dispenses such controlled substances identified pursuant to section 124.554, subsection 1, paragraph *"g"*, to patients inside or outside the state, unless specifically excepted in this section or by rule, and each prescribing practitioner furnishing, dispensing, or supplying controlled substances to the prescribing practitioner's patient, shall submit the following prescription information to the program:

a. Pharmacy identification.

b. Patient identification.

c. Prescribing practitioner identification.

d. The date the prescription was issued by the prescribing practitioner.

e. The date the prescription was dispensed.

f. An indication of whether the prescription dispensed is new or a refill.

g. Identification of the drug dispensed.

h. Quantity of the drug dispensed.

i. The number of days' supply of the drug dispensed.

j. Serial or prescription number assigned by the pharmacy.

k. Type of payment for the prescription.

l. Other information identified by the board ~~and advisory council~~ by rule.

2. Information shall be submitted electronically in a secure format specified by the board unless the board has granted a waiver and approved an alternate secure format.

3. Information shall be timely transmitted ~~as designated by the board and advisory council by rule~~ within one business day of the dispensing of the controlled substance, unless the board grants an extension. The board may grant an extension if either of the following occurs:

a. The pharmacy or prescribing practitioner suffers a mechanical or electronic failure, or cannot meet the deadline established by the board for other reasons beyond the pharmacy's or practitioner's control.

b. The board is unable to receive electronic submissions.

4. This section shall not apply to ~~a prescribing practitioner furnishing, dispensing, supplying, or administering drugs to the prescribing practitioner's patient, or to~~ dispensing by a licensed pharmacy for the purposes of ~~inpatient hospital care,~~ inpatient hospice care~~,~~ or long-term residential facility patient care.

Sec. 6. Section 124.553, subsection 4, Code 2018, is amended by striking the subsection.

Sec. 7. Section 124.554, subsection 1, paragraphs b, c, d, and g, Code 2018, are amended to read as follows:

b. An electronic format for the submission of information from pharmacies and prescribing practitioners.

c. A waiver to submit information in another format for a pharmacy or prescribing practitioner unable to submit information electronically.

d. An application by a pharmacy or prescribing practitioner for an extension of time for transmitting information to the program.

g. Including all schedule II controlled substances, ~~and~~ those substances in schedules III and IV that the advisory council and board determine can be addictive or fatal if not taken under the proper care and direction of a prescribing practitioner, and opioid antagonists.

Sec. 8. Section 124.557, Code 2018, is amended to read as follows:

124.557 Drug information program fund.

The drug information program fund is established to be used by the board to fund or assist in funding the program. The board may make deposits into the fund from any source, public or private, including grants or contributions of money or other items of value, which it determines necessary to carry out the purposes of this subchapter. The board may add a surcharge of not more than twenty-five percent to the applicable fee for a registration issued pursuant to section 124.302 and the surcharge shall be deposited into the fund. Moneys received by the board to establish and maintain the program must be used for the expenses

of administering this subchapter. Notwithstanding section 8.33, amounts contained in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in future years.

Sec. 9. Section 124.558, subsection 1, Code 2018, is amended to read as follows:

1. *Failure to comply with requirements.* A pharmacist, pharmacy, prescribing practitioner, or agent of a pharmacist or prescribing practitioner who knowingly fails to comply with the confidentiality requirements of this subchapter or who delegates program information access to another individual except as provided in section 124.553, is subject to disciplinary action by the appropriate professional licensing board. A pharmacist, ~~or~~ pharmacy, or prescribing practitioner that knowingly fails to comply with other requirements of this subchapter is subject to disciplinary action by the board. Each licensing board may adopt rules in accordance with chapter 17A to implement the provisions of this section.

DIVISION II
ELECTRONIC PRESCRIPTIONS

Sec. 10. Section 124.308, Code 2018, is amended by striking the section and inserting in lieu thereof the following:

124.308 Prescriptions.

1. Except when dispensed directly by a practitioner to an ultimate user, a prescription drug as defined in section 155A.3 that is a controlled substance shall not be dispensed without a prescription, unless such prescription is authorized by a practitioner and complies with this section, section 155A.27, applicable federal law and regulation, and rules of the board.

2. *a.* Beginning January 1, 2020, every prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription pursuant to the requirements in subsection 2, paragraph *"b"*, unless exempt under subsection 2, paragraph *"c"*.

b. Except for prescriptions identified in paragraph *"c"*, a prescription that is transmitted pursuant to paragraph *"a"* shall be transmitted to a pharmacy by a practitioner or the practitioner's authorized agent in compliance with federal law and regulation for electronic prescriptions of controlled substances. The practitioner's electronic prescription system and the receiving pharmacy's dispensing system shall comply with federal law and regulation for electronic prescriptions of controlled substances.

c. Paragraph *"b"* shall not apply to any of the following:

(1) A prescription for a patient residing in a nursing home, long-term care facility, correctional facility, or jail.

(2) A prescription authorized by a licensed veterinarian.

(3) A prescription dispensed by a department of veterans affairs pharmacy.

(4) A prescription requiring information that makes electronic submission impractical, such as complicated or lengthy directions for use or attachments.

(5) A prescription for a compounded preparation containing two or more components.

(6) A prescription issued in response to a public health emergency in a situation where a non-patient specific prescription would be permitted.

(7) A prescription issued pursuant to an established and valid collaborative practice agreement, standing order, or drug research protocol.

(8) A prescription issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location, provided that a prescription issued pursuant to this subparagraph shall indicate on the prescription that the practitioner or pharmacy is experiencing a temporary technical or electronic failure.

(9) A prescription issued in an emergency situation pursuant to federal law and regulation rules of the board.

d. A practitioner, as defined in section 124.101, subsection 27, paragraph *"a"*, who violates paragraph *"a"* is subject to an administrative penalty of two hundred fifty dollars per violation, up to a maximum of five thousand dollars per calendar year. The assessment of an administrative penalty pursuant to this paragraph by the appropriate licensing board of the practitioner alleged to have violated paragraph *"a"* shall not be considered a disciplinary action or reported as discipline. A practitioner may appeal the assessment of

an administrative penalty pursuant to this paragraph, which shall initiate a contested case proceeding under chapter 17A. A penalty collected pursuant to this paragraph shall be deposited into the drug information program fund established pursuant to section 124.557. The board shall be notified of any administrative penalties assessed by the appropriate professional licensing board and deposited into the drug information program fund under this paragraph.

e. A pharmacist who receives a written, oral, or facsimile prescription shall not be required to verify that the prescription is subject to an exception under paragraph "*c*" and may dispense a prescription drug pursuant to an otherwise valid written, oral, or facsimile prescription. However, a pharmacist shall exercise professional judgment in identifying and reporting suspected violations of this section to the board or the appropriate professional licensing board of the practitioner.

3. A prescription issued prior to January 1, 2020, or a prescription that is exempt from the electronic prescription requirement in subsection 2, paragraph "c", may be transmitted by a practitioner or the practitioner's authorized agent to a pharmacy in any of the following ways:

a. Electronically, if transmitted in accordance with the requirements for electronic prescriptions pursuant to subsection 2.

b. By facsimile for a schedule III, IV, or V controlled substance, or for a schedule II controlled substance only pursuant to federal law and regulation and rules of the board.

c. Orally for a schedule III, IV, or V controlled substance, or for a schedule II controlled substance only in an emergency situation pursuant to federal regulation and rules of the board.

d. By providing an original signed prescription to a patient or a patient's authorized representative.

4. If permitted by federal law and in accordance with federal requirements, an electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide a patient, a patient's authorized representative, or the dispensing pharmacy with a signed, written prescription. An original signed prescription shall be retained for a minimum of two years from the date of the latest dispensing or refill of the prescription.

5. A prescription for a schedule II controlled substance shall not be filled more than six months after the date of issuance. A prescription for a schedule II controlled substance shall not be refilled.

6. A prescription for a schedule III, IV, or V controlled substance shall not be filled or refilled more than six months after the date on which the prescription was issued or be refilled more than five times.

7. A controlled substance shall not be distributed or dispensed other than for a medical purpose.

8. A practitioner, medical group, or pharmacy that is unable to timely comply with the electronic prescribing requirements in subsection 2, paragraph "*b*", may petition the board for an exemption from the requirements based upon economic hardship, technical limitations that the practitioner, medical group, or pharmacy cannot control, or other exceptional circumstances. The board shall adopt rules establishing the form and specific information to be included in a request for an exemption and the specific criteria to be considered by the board in determining whether to approve a request for an exemption. The board may approve an exemption for a period of time determined by the board not to exceed one year from the date of approval, and may be renewed annually upon request subject to board approval.

Sec. 11. Section 155A.27, Code 2018, is amended by striking the section and inserting in lieu thereof the following:

155A.27 Requirements for prescription.

1. Except when dispensed directly by a prescriber to an ultimate user, a prescription drug shall not be dispensed without a prescription, authorized by a prescriber, and based on a valid patient-prescriber relationship.

2. *a.* Beginning January 1, 2020, every prescription issued for a prescription drug shall be transmitted electronically as an electronic prescription to a pharmacy by a prescriber or the prescriber's authorized agent unless exempt under paragraph *"b"*.

b. Paragraph *"a"* shall not apply to any of the following:

(1) A prescription for a patient residing in a nursing home, long-term care facility, correctional facility, or jail.

(2) A prescription authorized by a licensed veterinarian.

(3) A prescription for a device.

(4) A prescription dispensed by a department of veterans affairs pharmacy.

(5) A prescription requiring information that makes electronic transmission impractical, such as complicated or lengthy directions for use or attachments.

(6) A prescription for a compounded preparation containing two or more components.

(7) A prescription issued in response to a public health emergency in a situation where a non-patient specific prescription would be permitted.

(8) A prescription issued for an opioid antagonist pursuant to section 135.190 or a prescription issued for epinephrine pursuant to section 135.185.

(9) A prescription issued during a temporary technical or electronic failure at the location of the prescriber or pharmacy, provided that a prescription issued pursuant to this subparagraph shall indicate on the prescription that the prescriber or pharmacy is experiencing a temporary technical or electronic failure.

(10) A prescription issued pursuant to an established and valid collaborative practice agreement, standing order, or drug research protocol.

(11) A prescription issued in an emergency situation pursuant to federal law and regulation and rules of the board.

c. A practitioner, as defined in section 124.101, subsection 27, paragraph *"a"*, who violates paragraph *"a"* is subject to an administrative penalty of two hundred fifty dollars per violation, up to a maximum of five thousand dollars per calendar year. The assessment of an administrative penalty pursuant to this paragraph by the appropriate licensing board of the practitioner alleged to have violated paragraph *"a"* shall not be considered a disciplinary action or reported as discipline. A practitioner may appeal the assessment of an administrative penalty pursuant to this paragraph, which shall initiate a contested case proceeding under chapter 17A. A penalty collected pursuant to this paragraph shall be deposited into the drug information program fund established pursuant to section 124.557. The board shall be notified of any administrative penalties assessed by the appropriate professional licensing board and deposited into the drug information program fund under this paragraph.

d. A pharmacist who receives a written, oral, or facsimile prescription shall not be required to verify that the prescription is subject to an exception under paragraph *"b"* and may dispense a prescription drug pursuant to an otherwise valid written, oral, or facsimile prescription. However, a pharmacist shall exercise professional judgment in identifying and reporting suspected violations of this section to the board or the appropriate professional licensing board of the prescriber.

3. For prescriptions issued prior to January 1, 2020, or for prescriptions exempt from the electronic prescription requirement in subsection 2, paragraph *"b"*, a prescriber or the prescriber's authorized agent may transmit a prescription for a prescription drug to a pharmacy by any of the following means:

a. Electronically.

b. By facsimile.

c. Orally.

d. By providing an original signed prescription to a patient or a patient's authorized representative.

4. A prescription shall be issued in compliance with this subsection. Regardless of the means of transmission, a prescriber shall provide verbal verification of a prescription upon request of the pharmacy.

a. If written, electronic, or facsimile, each prescription shall contain all of the following:

(1) The date of issue.

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

(3) The name, strength, and quantity of the drug prescribed.

(4) The directions for use of the drug, medicine, or device prescribed.

(5) The name, address, and written or electronic signature of the prescriber issuing the prescription.

(6) The federal drug enforcement administration number, if required under chapter 124.

b. If electronic, each prescription shall comply with all of the following:

(1) The prescriber shall ensure that the electronic system used to transmit the electronic prescription has adequate security and safeguards designed to prevent and detect unauthorized access, modification, or manipulation of the prescription.

(2) Notwithstanding paragraph *"a"*, subparagraph (5), for prescriptions that are not controlled substances, if transmitted by an authorized agent, the electronic prescription shall not require the written or electronic signature of the prescriber issuing the prescription.

c. If facsimile, in addition to the requirements of paragraph *"a"*, each prescription shall contain all of the following:

(1) The identification number of the facsimile machine which is used to transmit the prescription.

(2) The date and time of transmission of the prescription.

(3) The name, address, telephone number, and facsimile number of the pharmacy to which the prescription is being transmitted.

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

e. A prescription transmitted by electronic, facsimile, or oral means by a prescriber's agent shall also include the name and title of the prescriber's agent completing the transmission.

5. An electronic, facsimile, or oral prescription shall serve as the original signed prescription and the prescriber shall not provide a patient, a patient's authorized representative, or the dispensing pharmacist with a signed written prescription. Prescription records shall be retained pursuant to rules of the board.

6. This section shall not prohibit a pharmacist, in exercising the pharmacist's professional judgment, from dispensing, at one time, additional quantities of a prescription drug, with the exception of a prescription drug that is a controlled substance as defined in section 124.101, up to the total number of dosage units authorized by the prescriber on the original prescription and any refills of the prescription, not to exceed a ninety-day supply of the prescription drug as specified on the prescription.

7. A prescriber, medical group, institution, or pharmacy that is unable to timely comply with the electronic prescribing requirements in subsection 2, paragraph *"a"*, may petition the board for an exemption from the requirements based upon economic hardship, technical limitations that the prescriber, medical group, institution, or pharmacy cannot control, or other exceptional circumstances. The board shall adopt rules establishing the form and specific information to be included in a request for an exemption and the specific criteria to be considered by the board in determining whether to approve a request for an exemption. The board may approve an exemption for a period of time determined by the board, not to exceed one year from the date of approval, and may be annually renewed subject to board approval upon request.

Sec. 12. Section 155A.29, subsection 4, Code 2018, is amended to read as follows:

4. An authorization to refill a prescription drug order ~~may~~ shall be transmitted to a ~~pharmacist~~ pharmacy by a prescriber or the prescriber's authorized agent ~~through word of mouth, note, telephone, facsimile, or other means of communication initiated by or directed by the practitioner. The transmission shall include the information required~~ pursuant to section 155A.27, except that prescription drug orders for controlled substances shall be transmitted pursuant to section 124.308, and, if not transmitted directly by the practitioner,

shall ~~identify by~~ also include the name and title of the practitioner's agent completing the transmission.

DIVISION III
PRESCRIBER ACTIVITY REPORTS

Sec. 13. Section 124.553, subsection 1, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *h.* A prescribing practitioner for the issuance of a required report pursuant to section 124.554, subsection 3.

Sec. 14. Section 124.554, subsection 1, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *j.* The issuance annually of a prescribing practitioner activity report compiled from information from the program pursuant to subsection 3.

Sec. 15. Section 124.554, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 3. *a.* Beginning February 1, 2019, and annually by February 1 thereafter, the board shall electronically, and at as low a cost as possible, issue each prescribing practitioner who prescribed a controlled substance reported to the program as dispensed in the preceding calendar year in this state a prescribing practitioner activity report which shall include but not be limited to the following:

(1) A summary of the prescribing practitioner's history of prescribing controlled substances.

(2) A comparison of the prescribing practitioner's history of prescribing controlled substances with the history of other prescribing practitioners of the same profession or specialty.

(3) The prescribing practitioner's history of program use.

(4) General patient risk factors.

(5) Educational updates.

(6) Other pertinent information identified by the board and advisory council by rule.

b. Information provided to a prescribing practitioner in a report required under this subsection is privileged and shall be kept confidential pursuant to section 124.553, subsection 3.

Sec. 16. Section 124.556, Code 2018, is amended to read as follows:

124.556 Education and treatment.

The program ~~for drug prescribing and dispensing~~ shall include education initiatives and outreach to consumers, prescribing practitioners, and pharmacists, and shall also include assistance for identifying substance abuse treatment programs and providers. The program shall also include educational updates and information on general patient risk factors for prescribing practitioners. The board and advisory council shall adopt rules, as provided under section 124.554, to implement this section.

DIVISION IV
SUBSTANCE ABUSE PREVENTION

Sec. 17. Section 124.550, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 3. *"Proactive notification"* means a notification by the board, generated based on factors determined by the board and issued to a specific prescribing practitioner or pharmacist, indicating that a patient may be practitioner shopping or pharmacy shopping or at risk of abusing or misusing a controlled substance.

Sec. 18. Section 124.553, subsection 1, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* A prescribing practitioner or pharmacist through the use of a targeted distribution of proactive notifications.

Sec. 19. Section 124.553, subsections 2 and 3, Code 2018, are amended to read as follows:

2. The board shall maintain a record of each person that requests information from the program and of all proactive notifications distributed to prescribing practitioners and dispensing pharmacists as provided in subsection 1, paragraph "*g*". Pursuant to rules adopted by the board ~~and advisory council~~ under section 124.554, the board may use the records to document and report statistical information, and may provide program information for statistical, public research, public policy, or educational purposes, after removing personal identifying information of a patient, prescribing practitioner, dispenser, or other person who is identified in the information.

3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program and information distributed to prescribing practitioners and dispensing pharmacists as provided in subsection 1, paragraph "*g*", is privileged and strictly confidential information. Such information is a confidential public record pursuant to section 22.7, and is not subject to discovery, subpoena, or other means of legal compulsion for release except as provided in this subchapter. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this subchapter.

Sec. 20. Section 124.554, subsection 1, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *k*. The establishment of thresholds or other criteria or measures to be used in identifying an at-risk patient as provided in section 124.553, subsection 1, paragraph "*g*", and the targeted distribution of proactive notifications suggesting review of the patient's prescription history.

Sec. 21. NEW SECTION. **147.162 Rules and directives relating to opioids.**

1. Any board created under this chapter that licenses a prescribing practitioner shall adopt rules under chapter 17A establishing penalties for prescribing practitioners that prescribe opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in the same practice.

2. For the purposes of this section, "*prescribing practitioner*" means a licensed health care professional with the authority to prescribe prescription drugs including opioids.

Sec. 22. NEW SECTION. **272C.2C Continuing education minimum requirements — medicine and surgery and osteopathic medicine and surgery, nursing, dentistry, podiatry, and physician assistants.**

1. The board of medicine, board of dentistry, board of physician assistants, board of podiatry, and board of nursing shall establish rules requiring a person licensed pursuant to section 148.3, 148C.3, 149.3, or 152.6 or chapter 153 who has prescribed opioids to a patient during the previous licensure cycle to receive continuing education credits regarding the United States centers for disease control and prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal. Each licensing board shall have the authority to determine how often a licensee must receive continuing education credits.

2. The rules established pursuant to this section shall include the option for a licensee to attest as part of the license renewal process that the licensee is not subject to the requirement to receive continuing education credits pursuant to this section, due to the fact that the licensee did not prescribe opioids to a patient during the previous licensure cycle.

Sec. 23. RESCISSION OF ADMINISTRATIVE RULES.

1. 653 Iowa administrative code, rule 11.4, subrule (1), paragraph "d", is rescinded.

2. As soon as practicable, the Iowa administrative code editor shall remove the language of the Iowa administrative rule referenced in subsection 1 of this section from the Iowa administrative code.

DIVISION V
REGISTRATION

Sec. 24. Section 124.302, subsections 1 and 4, Code 2018, are amended to read as follows:

1. Every person who manufactures, distributes, or dispenses any controlled substance ~~within~~ in this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain and maintain a ~~biennial~~ registration issued by the board in accordance with its rules.

4. A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, ~~or~~ dispenses, or conducts research with controlled substances.

Sec. 25. Section 124.304, subsection 1, Code 2018, is amended to read as follows:

1. The board may suspend, revoke, or restrict a registration under section 124.303 ~~to manufacture, distribute, or dispense a controlled substance~~, or otherwise discipline a registrant, upon a finding that any of the following apply to the registrant:

a. The registrant has furnished false or fraudulent material information in any application filed under this chapter or any other chapter which applies to the registrant or the registrant's practice.

b. The registrant has had the registrant's federal registration to manufacture, distribute, ~~or~~ dispense, or conduct research with controlled substances suspended, revoked, or restricted.

c. The registrant has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this section only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though the entry of the judgment or sentence has been withheld and the individual placed on probation.

d. The registrant has committed such acts as would render the registrant's registration under section 124.303 inconsistent with the public interest as determined under that section.

e. If the registrant is a licensed health care professional, the registrant has had the registrant's professional license revoked or suspended or has been otherwise disciplined in a way that restricts the registrant's authority to handle or prescribe controlled substances.

Sec. 26. Section 124.304, subsections 2, 3, and 4, Code 2018, are amended to read as follows:

2. The board may limit revocation, ~~or~~ suspension, or restriction of a registration or discipline of a registrant to the particular controlled substance with respect to which grounds for revocation, ~~or~~ suspension, restriction, or discipline exist.

3. If the board suspends, ~~or~~ revokes, or restricts a registration, or otherwise disciplines a registrant, all controlled substances owned or possessed by the registrant at the time of the suspension, revocation, restriction, or discipline, or at the time of the effective date of the ~~revocation~~ order, may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon ~~a revocation~~ an order becoming final, all such controlled substances may be forfeited to the state.

4. The board shall promptly notify the bureau and the department of all orders suspending, ~~or~~ revoking, or restricting a registration ~~and all forfeitures of controlled substances~~, or otherwise disciplining a registrant.

Sec. 27. Section 124.305, Code 2018, is amended to read as follows:

124.305 ~~Order to show cause~~ Contested case proceedings.

1. ~~Before denying,~~ Prior to suspending, restricting, or revoking a registration, ~~or~~ refusing a renewal of registration, or otherwise disciplining a registrant, the board shall serve upon the ~~applicant or~~ registrant ~~an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than thirty days after the date of~~

~~service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration~~ a notice in accordance with section 17A.12, subsection 1. The proceedings shall comply with the contested case procedures in accordance with chapter 17A. ~~These~~ The proceedings shall also be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

2. The board~~, without an order to show cause,~~ may suspend any registration while simultaneously ~~with the institution of proceedings under section 124.304, or where renewal of registration is refused,~~ pursuing emergency adjudicative proceedings in accordance with section 17A.18A, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, under the provisions of the Iowa administrative procedure Act, chapter 17A, unless sooner withdrawn by the board or dissolved by the order of the district court or an appellate court.

DIVISION VI
CONTROLLED SUBSTANCES — PRECURSOR SUBSTANCES

Sec. 28. Section 124.204, subsection 9, Code 2018, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *t.* Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: 5F-ADB; 5F-MDMB-PINACA.

NEW PARAGRAPH. *u.* Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other name: 5F-AMB.

NEW PARAGRAPH. *v.* N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: 5F-APINACA, 5F-AKB48.

NEW PARAGRAPH. *w.* N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other name: ADB-FUBINACA.

NEW PARAGRAPH. *x.* Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: MDMB-CHMICA, MMB-CHMINACA.

NEW PARAGRAPH. *y.* Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other name: MDMB-FUBINACA.

NEW PARAGRAPH. *z.* N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other names: 4-fluoroisobutyryl fentanyl, para-fluoroisobutyryl fentanyl.

NEW PARAGRAPH. *aa.* N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) propionamide. Other names: ortho-fluorofentanyl or 2-fluorofentanyl.

NEW PARAGRAPH. *ab.* N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide. Other name: tetrahydrofuranyl fentanyl.

NEW PARAGRAPH. *ac.* 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide. Other name: methoxyacetyl fentanyl.

NEW PARAGRAPH. *ad.* N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide. Other names: acryl fentanyl or acryloylfentanyl.

NEW PARAGRAPH. *ae.* Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA.

Sec. 29. Section 124.206, subsection 7, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* Dronabinol [(-)-delta-9-trans-tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the United States food and drug administration.

Sec. 30. Section 124B.2, subsection 1, Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. *ab.* Alpha-phenylacetoacetonitrile and its salts, optical isomers, and salts of optical isomers. Other name: APAAN.

Sec. 31. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII
GOOD SAMARITAN IMMUNITY

Sec. 32. NEW SECTION. **124.418 Persons seeking medical assistance for drug-related overdose.**

1. As used in this section, unless the context otherwise requires:

a. "Drug-related overdose" means a condition of a person for which each of the following is true:

(1) The person is in need of medical assistance.

(2) The person displays symptoms including but not limited to extreme physical illness, pinpoint pupils, decreased level of consciousness including coma, or respiratory depression.

(3) The person's condition is the result of, or a prudent layperson would reasonably believe such condition to be the result of, the consumption or use of a controlled substance.

b. "Overdose patient" means a person who is, or would reasonably be perceived to be, suffering a drug-related overdose and who has not previously received immunity under this section.

c. "Overdose reporter" means a person who seeks medical assistance for an overdose patient and who has not previously received immunity under this section.

d. "Protected information" means information or evidence collected or derived as a result of any of the following:

(1) An overdose patient's good-faith actions to seek medical assistance while experiencing a drug-related overdose.

(2) An overdose reporter's good-faith actions to seek medical assistance for an overdose patient experiencing a drug-related overdose if all of the following are true:

(a) The overdose patient is in need of medical assistance for an immediate health or safety concern.

(b) The overdose reporter is the first person to seek medical assistance for the overdose patient.

(c) The overdose reporter provides the overdose reporter's name and contact information to medical or law enforcement personnel.

(d) The overdose reporter remains on the scene until assistance arrives or is provided.

(e) The overdose reporter cooperates with medical and law enforcement personnel.

(f) Medical assistance was not sought during the execution of an arrest warrant, search warrant, or other lawful search.

2. Protected information shall not be considered to support probable cause and shall not be admissible as evidence against an overdose patient or overdose reporter for any of the following offenses:

a. Delivery of a controlled substance under section 124.401, subsection 1, if such delivery involved the sharing of the controlled substance without profit.

b. Possession of a controlled substance under section 124.401, subsection 5.

c. Violation of section 124.407.

d. Violation of section 124.414.

3. A person's pretrial release, probation, supervised release, or parole shall not be revoked based on protected information.

4. Notwithstanding any other provision of law to the contrary, a court may consider the act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose as a mitigating factor in a criminal prosecution.

5. Nothing in this section shall do any of the following:

a. Preclude or prevent an investigation by law enforcement of the drug-related overdose where medical assistance was provided.

b. Be construed to limit or bar the use or admissibility of any evidence or information obtained in connection with the investigation of the drug-related overdose in the investigation or prosecution of other crimes or violations which do not qualify for immunity under this section and which are committed by any person, including the overdose patient or overdose reporter.

c. Preclude the investigation or prosecution of any person on the basis of evidence obtained from sources other than the specific drug-related overdose where medical assistance was provided.

Approved May 14, 2018