

Senate Amendment 5126

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1 1 Amend House File 722, as passed by the House, as
1 2 follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 <Section 1. Section 22.7, Code Supplement 2005, is
1 6 amended by adding the following new subsection:
1 7 NEW SUBSECTION. 52. The information contained in
1 8 the information program established in section
1 9 124.510A, except to the extent that disclosure is
1 10 authorized pursuant to section 124.510C.
1 11 Sec. 2. NEW SECTION. 124.510A INFORMATION
1 12 PROGRAM FOR DRUG PRESCRIBING AND DISPENSING.
1 13 Contingent upon the receipt of funds pursuant to
1 14 section 124.510G sufficient to carry out the purposes
1 15 of this division, the board, in conjunction with the
1 16 advisory council created in section 124.510E, shall
1 17 establish and maintain an information program for drug
1 18 prescribing and dispensing. The program shall collect
1 19 from pharmacies dispensing information for controlled
1 20 substances identified pursuant to section 124.510D,
1 21 subsection 1, paragraph "g". The information
1 22 collected shall be used by prescribing practitioners
1 23 and dispensing pharmacists on a need-to-know basis for
1 24 purposes of improving patient health care by
1 25 facilitating early identification of patients who may
1 26 be at risk for addiction, or who may be using,
1 27 abusing, or diverting drugs for unlawful or otherwise
1 28 unauthorized purposes at risk to themselves and
1 29 others, or who may be appropriately using controlled
1 30 substances lawfully prescribed for them but unknown to
1 31 the practitioner. The board shall collect, store, and
1 32 disseminate program information consistent with
1 33 security criteria established by rule, including use
1 34 of appropriate encryption or other industry-recognized
1 35 security technology. The board shall seek any federal
1 36 waiver necessary to implement the provisions of the
1 37 program.
1 38 Sec. 3. NEW SECTION. 124.510B INFORMATION
1 39 REPORTING.
1 40 1. Each licensed pharmacy that dispenses
1 41 controlled substances identified pursuant to section
1 42 124.510D, subsection 1, paragraph "g", to patients in
1 43 the state, and each licensed pharmacy located in the
1 44 state that dispenses such controlled substances
1 45 identified pursuant to section 124.510D, subsection 1,
1 46 paragraph "g", to patients inside or outside the
1 47 state, unless specifically excepted in this section or
1 48 by rule, shall submit the following prescription
1 49 information to the program:
2 50 a. Pharmacy identification.
2 51 b. Patient identification.
2 52 c. Prescriber identification.
2 53 d. The date the prescription was issued by the
2 54 prescriber.
2 55 e. The date the prescription was dispensed.
2 56 f. An indication of whether the prescription
2 57 dispensed is new or a refill.
2 58 g. Identification of the drug dispensed.
2 59 h. Quantity of the drug dispensed.
2 60 i. The number of days' supply of the drug
2 61 dispensed.
2 62 j. Serial or prescription number assigned by the
2 63 pharmacy.
2 64 k. Type of payment for the prescription.
2 65 1. Other information identified by the board and
2 66 advisory council by rule.
2 67 2. Information shall be submitted electronically
2 68 in a secure format specified by the board unless the
2 69 board has granted a waiver and approved an alternate
2 70 secure format.
2 71 3. Information shall be timely transmitted as
2 72 designated by the board and advisory council by rule,
2 73 unless the board grants an extension. The board may
2 74 grant an extension if either of the following occurs:

2 25 a. The pharmacy suffers a mechanical or electronic
2 26 failure, or cannot meet the deadline established by
2 27 the board for other reasons beyond the pharmacy's
2 28 control.

2 29 b. The board is unable to receive electronic
2 30 submissions.

2 31 4. This section shall not apply to a prescriber
2 32 furnishing, dispensing, supplying, or administering
2 33 drugs to the prescriber's patient, or to dispensing by
2 34 a licensed pharmacy for the purposes of inpatient
2 35 hospital care, inpatient hospice care, or long-term
2 36 residential facility patient care.

2 37 Sec. 4. NEW SECTION. 124.510C INFORMATION
2 38 ACCESS.

2 39 1. The board may provide information from the
2 40 program to the following:

2 41 a. A pharmacist or prescriber who requests the
2 42 information and certifies in a form specified by the
2 43 board that it is for the purpose of providing medical
2 44 or pharmaceutical care to a patient of the pharmacist
2 45 or prescriber. Neither a pharmacist nor a prescriber
2 46 may delegate program information access to another
2 47 individual.

2 48 b. An individual who requests the individual's own
2 49 program information in accordance with the procedure
2 50 established in rules of the board and advisory council
3 1 adopted under section 124.510D.

3 2 c. Pursuant to an order, subpoena, or other means
3 3 of legal compulsion for access to or release of
3 4 program information that is issued based upon a
3 5 determination of probable cause in the course of a
3 6 specific investigation of a specific individual.

3 7 2. The board shall maintain a record of each
3 8 person that requests information from the program.
3 9 Pursuant to rules adopted by the board and advisory
3 10 council under section 124.510D, the board may use the
3 11 records to document and report statistical
3 12 information.

3 13 3. Information contained in the program and any
3 14 information obtained from it, and information
3 15 contained in the records of requests for information
3 16 from the program, is privileged and strictly
3 17 confidential information. Such information is not a
3 18 public record pursuant to chapter 22, and is not
3 19 subject to discovery, subpoena, or other means of
3 20 legal compulsion for release except as provided in
3 21 this division. Information from the program shall not
3 22 be released, shared with an agency or institution, or
3 23 made public except as provided in this division.

3 24 4. Information collected for the program shall be
3 25 retained in the program for four years from the date
3 26 of dispensing. The information shall then be
3 27 destroyed.

3 28 5. A pharmacist or other dispenser making a report
3 29 to the program reasonably and in good faith pursuant
3 30 to this division is immune from any liability, civil,
3 31 criminal, or administrative, which might otherwise be
3 32 incurred or imposed as a result of the report.

3 33 6. Nothing in this section shall require a
3 34 pharmacist or prescriber to obtain information about a
3 35 patient from the program. A pharmacist or prescriber
3 36 does not have a duty and shall not be held liable in
3 37 damages to any person in any civil or derivative
3 38 criminal or administrative action for injury, death,
3 39 or loss to person or property on the basis that the
3 40 pharmacist or prescriber did or did not seek or obtain
3 41 or use information from the program. A pharmacist or
3 42 prescriber acting reasonably and in good faith is
3 43 immune from any civil, criminal, or administrative
3 44 liability that might otherwise be incurred or imposed
3 45 for requesting or receiving or using information from
3 46 the program.

3 47 7. The board shall not charge a fee to a pharmacy,
3 48 pharmacist, or prescriber for the establishment,
3 49 maintenance, or administration of the program,
3 50 including costs for forms required to submit
4 1 information to or access information from the program,
4 2 except that the board may charge a fee to an
4 3 individual who requests the individual's own program
4 4 information. A fee charged pursuant to this
4 5 subsection shall not exceed the actual cost of

4 6 providing the requested information and shall be
4 7 considered a repayment receipt as defined in section
4 8 8.2.

4 9 Sec. 5. NEW SECTION. 124.510D RULES AND
4 10 REPORTING.

4 11 1. The board and advisory council shall jointly
4 12 adopt rules in accordance with chapter 17A to carry
4 13 out the purposes of, and to enforce the provisions of,
4 14 this division. The rules shall include but not be
4 15 limited to the development of procedures relating to:

4 16 a. Identifying each patient about whom information
4 17 is entered into the program.

4 18 b. An electronic format for the submission of
4 19 information from pharmacies.

4 20 c. A waiver to submit information in another
4 21 format for a pharmacy unable to submit information
4 22 electronically.

4 23 d. An application by a pharmacy for an extension
4 24 of time for transmitting information to the program.

4 25 e. The submission by an authorized requestor of a
4 26 request for information and a procedure for the
4 27 verification of the identity of the requestor.

4 28 f. Use by the board or advisory council of the
4 29 program request records required by section 124.510C,
4 30 subsection 2, to document and report statistical
4 31 information.

4 32 g. Including all Schedule II controlled substances
4 33 and those substances in Schedules III and IV that the
4 34 advisory council and board determine can be addictive
4 35 or fatal if not taken under the proper care and
4 36 direction of a prescriber.

4 37 h. Access by a pharmacist or prescriber to
4 38 information in the program pursuant to a written
4 39 agreement with the board and advisory council.

4 40 i. The correction or deletion of erroneous
4 41 information in the program.

4 42 2. Beginning January 1, 2007, and annually by
4 43 January 1 thereafter, the board and advisory council
4 44 shall present to the general assembly and the governor
4 45 a report prepared consistent with section 124.510E,
4 46 subsection 3, paragraph "d", which shall include but
4 47 not be limited to the following:

4 48 a. The cost to the state of implementing and
4 49 maintaining the program.

4 50 b. Information from pharmacies, prescribers, the
5 1 board, the advisory council, and others regarding the
5 2 benefits or detriments of the program.

5 3 c. Information from pharmacies, prescribers, the
5 4 board, the advisory council, and others regarding the
5 5 board's effectiveness in providing information from
5 6 the program.

5 7 Sec. 6. NEW SECTION. 124.510E ADVISORY COUNCIL
5 8 ESTABLISHED.

5 9 An advisory council shall be established to provide
5 10 oversight to the board and the program and to manage
5 11 program activities. The board and advisory council
5 12 shall jointly adopt rules specifying the duties and
5 13 activities of the advisory council and related
5 14 matters.

5 15 1. The council shall consist of eight members
5 16 appointed by the governor. The members shall include
5 17 three licensed pharmacists, four physicians licensed
5 18 under chapter 148, 150, or 150A, and one licensed
5 19 prescriber who is not a physician. The governor shall
5 20 solicit recommendations for council members from Iowa
5 21 health professional licensing boards, associations,
5 22 and societies. The license of each member appointed
5 23 to and serving on the advisory council shall be
5 24 current and in good standing with the professional's
5 25 licensing board.

5 26 2. The council shall advance the goals of the
5 27 program, which include identification of misuse and
5 28 diversion of controlled substances identified pursuant
5 29 to section 124.510D, subsection 1, paragraph "g", and
5 30 enhancement of the quality of health care delivery in
5 31 this state.

5 32 3. Duties of the council shall include but not be
5 33 limited to the following:

5 34 a. Ensuring the confidentiality of the patient,
5 35 prescriber, and dispensing pharmacist and pharmacy.

5 36 b. Respecting and preserving the integrity of the

5 37 patient's treatment relationship with the patient's
5 38 health care providers.

5 39 c. Encouraging and facilitating cooperative
5 40 efforts among health care practitioners and other
5 41 interested and knowledgeable persons in developing
5 42 best practices for prescribing and dispensing
5 43 controlled substances and in educating health care
5 44 practitioners and patients regarding controlled
5 45 substance use and abuse.

5 46 d. Making recommendations regarding the continued
5 47 benefits of maintaining the program in relationship to
5 48 cost and other burdens to the patient, prescriber,
5 49 pharmacist, and the board. The council's
5 50 recommendations shall be included in reports required
6 1 by section 124.510D, subsection 2.

6 2 e. One physician and one pharmacist member of the
6 3 council shall include in their duties the
6 4 responsibility for monitoring and ensuring that
6 5 patient confidentiality, best interests, and civil
6 6 liberties are at all times protected and preserved
6 7 during the existence of the program.

6 8 4. Members of the advisory council shall be
6 9 eligible to request and receive actual expenses for
6 10 their duties as members of the advisory council,
6 11 subject to reimbursement limits imposed by the
6 12 department of administrative services, and shall also
6 13 be eligible to receive a per diem compensation as
6 14 provided in section 7E.6, subsection 1.

6 15 Sec. 7. NEW SECTION. 124.510F EDUCATION AND
6 16 TREATMENT.

6 17 The program for drug prescribing and dispensing
6 18 shall include education initiatives and outreach to
6 19 consumers, prescribers, and pharmacists, and shall
6 20 also include assistance for identifying substance
6 21 abuse treatment programs and providers. The board and
6 22 advisory council shall adopt rules, as provided under
6 23 section 124.510D, to implement this section.

6 24 Sec. 8. NEW SECTION. 124.510G DRUG INFORMATION
6 25 PROGRAM FUND.

6 26 The drug information program fund is established to
6 27 be used by the board to fund or assist in funding the
6 28 program. The board may make deposits into the fund
6 29 from any source, public or private, including grants
6 30 or contributions of money or other items of value,
6 31 which it determines necessary to carry out the
6 32 purposes of this division. Moneys received by the
6 33 board to establish and maintain the program must be
6 34 used for the expenses of administering this division.
6 35 Notwithstanding section 8.33, amounts contained in the
6 36 fund that remain unencumbered or unobligated at the
6 37 close of the fiscal year shall not revert but shall
6 38 remain available for expenditure for the purposes
6 39 designated in future years.

6 40 Sec. 9. NEW SECTION. 124.510H PROHIBITED ACTS ==
6 41 PENALTIES.

6 42 1. FAILURE TO COMPLY WITH REQUIREMENTS. A
6 43 pharmacist, pharmacy, or prescriber who knowingly
6 44 fails to comply with the confidentiality requirements
6 45 of this division or who delegates program information
6 46 access to another individual is subject to
6 47 disciplinary action by the appropriate professional
6 48 licensing board. A pharmacist or pharmacy that
6 49 knowingly fails to comply with other requirements of
6 50 this division is subject to disciplinary action by the
7 1 board. Each licensing board may adopt rules in
7 2 accordance with chapter 17A to implement the
7 3 provisions of this section.

7 4 2. UNLAWFUL ACCESS, DISCLOSURE, OR USE OF
7 5 INFORMATION. A person who intentionally or knowingly
7 6 accesses, uses, or discloses program information in
7 7 violation of this division, unless otherwise
7 8 authorized by law, is guilty of a class "D" felony.
7 9 This section shall not preclude a pharmacist or
7 10 prescriber who requests and receives information from
7 11 the program consistent with the requirements of this
7 12 chapter from otherwise lawfully providing that
7 13 information to any other person for medical or
7 14 pharmaceutical care purposes.

7 15 Sec. 10. Sections 124.510A through 124.510H are
7 16 repealed June 30, 2009.

7 17 Sec. 11. EFFECTIVE DATE. This Act, being deemed

7 18 of immediate importance, takes effect upon enactment.>
7 19 #2. Title page, by striking lines 1 through 3 and
7 20 inserting the following: <An Act providing for the
7 21 establishment of an information program for drug
7 22 prescribing and dispensing, providing penalties, and
7 23 providing an effective date.>
7 24 #3. By renumbering as necessary.
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7 27
7 28 _____
7 28 COMMITTEE ON HUMAN RESOURCES
7 29 AMANDA RAGAN, CO=CHAIRPERSON
7 30
7 31
7 32
7 33 _____
7 33 JAMES SEYMOUR, CO=CHAIRPERSON
7 34 HF 722.202 81
7 35 rn/sh/1650