A BILL FOR

1 An Act relating to the Iowa prescription monitoring program,
2 including by establishing an advisory committee, authorizing
3 a registration surcharge, expanding information collection
4 and reporting requirements, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. 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. 2. Section 124.551, subsection 1, Code 2018, is amended
to read as follows:

1. Contingent upon the receipt of funds pursuant to
section 124.557 sufficient to carry out the purposes of
this subchapter, the board, in conjunction with the advisory
council created in section 124.555, shall establish
and maintain an information program for drug prescribing and
dispensing.

Sec. 3. Section 124.552, Code 2018, is amended to read as
follows:

124.552 Information reporting.
1. 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
1 practitioner.
2 e. The date the prescription was dispensed.
3 f. An indication of whether the prescription dispensed is new or a refill.
4 g. Identification of the drug dispensed.
5 h. Quantity of the drug dispensed.
6 i. The number of days' supply of the drug dispensed.
7 j. Serial or prescription number assigned by the pharmacy.
8 k. Type of payment for the prescription.
9 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, 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 dispensing by a licensed pharmacy for the purposes of inpatient hospital care, inpatient hospice care, or long-term residential facility patient care.

Sec. 4. Section 124.553, subsection 1, paragraph b, Code 2018, is amended to read as follows:

b. An individual who requests the individual’s own program information in accordance with the procedure established in rules of the board and advisory council adopted under section 124.554.
Sec. 5. 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. 6. Section 124.553, subsections 2, 3, and 7, 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.

7. The Except as allowed in section 124.557, the board shall not charge a fee to a pharmacy, pharmacist, or prescribing practitioner for the establishment, maintenance, or administration of the program, including costs for forms...
S.F. _____ H.F. _____

1 required to submit information to or access information from
2 the program, except that the board may charge a fee
3 to an individual who requests the individual's own program
4 information. A fee charged to an individual pursuant to this
5 subsection shall not exceed the actual cost of providing the
6 requested information and shall be considered a repayment
7 receipt as defined in section 8.2.
8 Sec. 7. Section 124.554, Code 2018, is amended to read as
9 follows:
10 124.554 Rules and reporting.
11 1. The board and advisory council, in consultation with the
12 advisory committee, shall jointly adopt rules in accordance
13 with chapter 17A to carry out the purposes of, and to enforce
14 the provisions of, this subchapter. The rules shall include
15 but not be limited to the development of procedures relating
16 to:
17 a. Identifying each patient about whom information is
18 entered into the program.
19 b. An electronic format for the submission of information
20 from pharmacies and prescribing practitioners.
21 c. A waiver to submit information in another format for
22 a pharmacy or prescribing practitioner unable to submit
23 information electronically.
24 d. An application by a pharmacy or prescribing practitioner
25 for an extension of time for transmitting information to the
26 program.
27 e. The submission by an authorized requestor of a request
28 for information and a procedure for the verification of the
29 identity of the requestor.
30 f. Use by the board or advisory council committee of the
31 program request records required by section 124.553, subsection
32 2, to document and report statistical information.
33 g. Including all schedule II, schedule III, schedule IV,
34 controlled substances and those substances in schedules III
35 and IV that the advisory council and board determine can be
S.F. ____  H.F. ____

1 addictive or fatal if not taken under the proper care and
direction of a prescribing practitioner schedule V controlled
substances except when dispensed by a pharmacist without a
prescription.

h. Access by a pharmacist or prescribing practitioner to
information in the program pursuant to a written agreement with
the board and advisory council.

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

j. 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.

k. User registration processes and requirements.

2. Beginning January 1, 2007 15, 2019, and annually by
January 1 15 thereafter, the board and advisory committee
shall present to the general assembly and the
governor a report prepared consistent with section 124.555,
subsection 3, paragraph "d", which shall include but not be
limited to the following:

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

b. Information from pharmacies, prescribing practitioners,
the board, the advisory committee, and others regarding
the benefits or detriments of the program.

c. Information from pharmacies, prescribing practitioners,
the board, the advisory committee, and others regarding
the board's effectiveness in providing information from the
program.

Sec. 8. Section 124.555, Code 2018, is amended to read as
follows:

124.555 Advisory committee established.

An advisory committee shall be established to
provide oversight to the board and the program and to comanage
program activities. The board and, in consultation with the advisory council committee, shall jointly adopt rules specifying the duties and activities of the advisory council committee and related matters.

1. The council committee shall consist of eight a minimum of four members appointed by the governor board. The members shall include but not be limited to at least one member from each of the following categories: three licensed pharmacists, four physicians licensed under chapter 148, and one licensed prescribing practitioner practitioners who is are not a physician physicians, and public members who are not health care professionals. The governor board may solicit recommendations for council committee members from Iowa health professional licensing boards, associations, and societies, and other interested groups. The license of each health care professional member appointed to and serving on the advisory council committee shall be current and in good standing with the professional’s licensing board.

2. The council committee shall advance the goals of the program, which include identification of misuse and diversion of controlled substances identified pursuant to section 124.554, subsection 1, paragraph "g", reduction of overdoses and deaths as a result of prescription controlled substance use and abuse, and enhancement of the quality of health care delivery in this state.

3. Duties of the council committee shall include but not be limited to the following:

   a. Ensuring the confidentiality of the patient, prescribing practitioner, and dispensing pharmacist and pharmacy.

   b. Respecting and preserving the integrity of the patient’s treatment relationship with the patient’s health care providers.

   c. Encouraging and facilitating cooperative efforts among health care practitioners and other interested and knowledgeable persons in developing best practices for
prescribing and dispensing controlled substances and in educating health care practitioners and patients regarding controlled substance use and abuse.

d. Making recommendations regarding the continued benefits of maintaining the program in relationship to cost and other burdens to the patient, prescribing practitioner, pharmacist, and the board. The council’s committee’s recommendations shall be included in reports required by section 124.554, subsection 2.

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

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

Sec. 9. Section 124.556, Code 2018, is amended to read as follows:


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 board and advisory council shall adopt rules, as provided under section 124.554, to implement this section.

Sec. 10. 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. 11. 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, 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.

Sec. 12. TRANSITION — APPOINTMENT AND TERMS OF ADVISORY COMMITTEE MEMBERS. This Act's amendments changing the name of the "advisory council" to the "advisory committee" shall not affect the appointment of a member who served on the advisory council immediately prior to the effective date of this Act. That member shall continue to serve on the advisory committee at the pleasure of the governor.
Sec. 13. TRANSITION — ADMINISTRATIVE RULES AND OTHER ACTIONS AND DOCUMENTS. Any rule, form, order, or directive promulgated by the advisory council created in section 124.550, in force and effect immediately prior to the effective date of this Act, shall continue in full force and effect until the earlier of the following:

1. It is amended, rescinded, or supplemented by the affirmative actions of the board of pharmacy.

2. It expires by its own terms.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill alters the Iowa prescription monitoring program (PMP) by establishing an advisory committee, authorizing a registration surcharge, expanding information collection and reporting requirements, and making penalties applicable to dispensing practitioners.

The bill adds dispensing prescribers to the list of persons required to report to the PMP the dispensation of reportable controlled substances to patients in Iowa, subject to the same exceptions provided to pharmacies, unless otherwise prohibited by state or federal law. The bill also eliminates the PMP advisory council and creates an advisory committee to assume the duties of the advisory council, with members to be appointed from among health care professionals and the general public by the board in numbers to be determined by the board, provided the committee consists of at least four members.

The bill provides that members of the advisory council shall continue to serve on the advisory committee and that any rule, form, order, or directive promulgated by the advisory council shall continue to be in force and effect until they are amended, rescinded, or supplemented by the board of pharmacy or expire by their own terms.

The bill also allows the board, in consultation with the PMP advisory committee, to establish criteria for the
identification of patients who are potentially misusing or abusing prescription controlled substances and authorizes the board to proactively notify the pharmacists and prescribing practitioner involved in the patient's care of its concerns. The bill authorizes the collection of dispensing records for all schedule II, III, IV, and V controlled substances except when the schedule V controlled substance is dispensed by a pharmacist without a prescription. The bill also authorizes, but does not require, the board to impose a surcharge to be deposited into the drug information program fund on controlled substances Act registrations, which any person who manufactures, distributes, or dispenses a controlled substance must obtain and maintain, to be used for the expenses of administering the PMP. The bill adds to the goals of the program the reduction of overdoses and deaths as a result of prescription controlled substance use and abuse. The bill also changes the due date for annual reports to the governor and the legislature regarding the program from January 1 to January 15. The bill makes prescribing practitioners subject to disciplinary action by the board under Code section 124.558 for failure to comply with the reporting requirement.