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[HF 2377](#) – Opioid Regulation (LSB6028HV)  
Analyst: Kent Ohms (515.971.7053) [kenneth.ohms@legis.iowa.gov](mailto:kenneth.ohms@legis.iowa.gov)  
Fiscal Note Version – New

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**Description – All Divisions**

[House File 2377](#) makes a variety of changes to the practice of pharmacy. Of the seven divisions in the Bill, three will have a fiscal impact; two may have a fiscal impact, but the extent of the fiscal impact is indeterminable; and two are expected to have little or no fiscal impact.

- Fiscal impact: Divisions I, III, and IV
- Possible but indeterminable fiscal impact: Divisions II and VII
- No or little fiscal impact: Divisions V and VI

**Background – All Divisions**

Iowa Code section [147.80](#) requires licensing boards to establish fees to sustain the cost of operations and services, and to annually adjust the fee schedule to cover projected expenses.

**Assumptions – All Divisions**

- The Board of Pharmacy (the Board) will comply with Iowa Code section [147.80](#).
- All costs associated with the Bill will likely be eligible for expenditure from the Drug Information Program Fund; otherwise, the Board of Pharmacy will use its operating budget to cover costs.

***DIVISION I: Regulation of the Prescription Drug Monitoring Program***

**Description**

Updates the [Prescription Monitoring Program](#) (PMP) in the following ways:

- Adds opioid antagonists to the list of drugs reportable to the Program and requires first responders to report administration of opioid antagonists.
- Requires all prescribing practitioners to register for the Program.
- Requires pharmacies or prescribing practitioners that dispense a controlled substance to report the dispensing of the controlled substance to the Program within 24 hours.
- Removes the four-year retention limit of Program information.
- Authorizes the Board of Pharmacy to establish a surcharge of up to 25.0% on the Controlled Substances Act (CSA) registration fee under Iowa Code section [124.302](#). Revenues are required to be deposited in the Drug Information Program Fund.

**Background**

The PMP provides authorized prescribers and pharmacists with information regarding their patients' use of controlled substances. It is used as a tool in determining appropriate prescribing and treatment of patients without fear of contributing to a patient's abuse of or dependence on addictive drugs or diversion of those drugs to illicit use. Iowa-licensed pharmacies, including both in-state and nonresident pharmacies, are required to report to the Iowa PMP all Schedule II, III, and IV controlled substances dispensed by the pharmacy to ambulatory patients.

### **Assumptions**

- The Board will need to develop a separate module of reporting in the PMP for first responders to submit information about opioid antagonist administration.
- There are approximately 19,500 Controlled Substances Act registrants in Iowa.
- Controlled Substances Act registration is currently done biennially. However, Division V of the Bill strikes this requirement. Therefore, the Board of Pharmacy would establish the frequency of registration. Under the new requirement, registration could take place annually, coincide with a practitioner's license registration (most last two years, but veterinarians' last three), or coincide with federal Drug Enforcement Administration registration (most last three years). This estimate assumes a frequency coinciding with practitioner licensing.
- A 25.0% surcharge on registration would equal \$22.50.

### **Fiscal Impact**

The surcharge for registration will result in increased revenue for the Drug Information Program Fund by an estimated \$189,000 in FY 2019, \$250,000 in FY 2020, and \$189,000 in FY 2021. Adding a module for first responders to report opioid antagonist dispensing will require expenditures estimated at \$75,000.

## ***DIVISION II: Electronic Prescriptions***

### **Description**

Requires all prescriptions to be electronically transmitted to a pharmacy effective January 1, 2020, and includes provisions for exemptions and administrative penalties.

### **Assumptions**

Hospitals and prescribers will become compliant with the electronic prescribing requirement by the deadline or seek an exemption to receive more time before becoming compliant.

### **Fiscal Impact**

Any administrative penalties associated with electronic prescribing will be deposited into the Drug Information Program Fund and are estimated to be minimal.

## ***DIVISION III: Prescriber Activity Reports***

### **Description**

Requires the Board of Pharmacy to annually issue a prescribing practitioner activity report of PMP activity to each practitioner registered with the Program. The Division also requires the Board to include information on general patient risk factors and educational updates in the PMP.

### **Assumptions**

- The Division will require an initial setup cost for the report issuance and for annual licensing of the NarxCare controlled substances data platform for disseminating educational updates and information on general patient risk.
- To provide information and educational material required, the Board will purchase the AWARxE Prescription Drug Safety Program data platform.

### **Fiscal Impact**

NarxCare will require an annual licensing fee estimated to cost \$186,000. The AWARxE platform setup is estimated to cost \$10,000 initially with no annual maintenance costs.

## ***DIVISION IV: Substance Abuse Prevention***

### **Description**

Requires the Board of Pharmacy 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 pharmacist and prescribing practitioner involved in the patient's care of the Board's concern. The Division also requires licensing boards that have prescribing practitioners to establish penalties for those who prescribe in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner.

### **Assumptions**

The Board of Pharmacy will need to hire 0.5 full-time equivalent (FTE) position pharmacist and will need to purchase new general office equipment to implement and administer the Iowa PMP.

### **Fiscal Impact**

The increased expenditure for salaries and benefits is estimated at \$64,000 annually beginning in FY 2019. The cost of office equipment is estimated at \$3,000 in FY 2019 and less than \$1,000 thereafter.

## ***DIVISION V: Registration***

### **Description**

Modifies Iowa Code chapter [124](#) (Controlled Substances Act) in the following ways:

- Removes "biennial" from the CSA registration requirements, which will permit registration frequency to be established by the Board of Pharmacy. See assumptions in Division I for more details on available options.
- Expands the disciplinary action available for the Board to take against CSA registrants beyond suspension, revocation, or restriction.

### **Assumptions**

- Similarly to Division I, the CSA registration will be made to align with professional licensure renewal cycle.
- Less severe disciplinary action available to the Board would include sanctions such as civil penalties, probationary conditions, etc.

### **Fiscal Impact**

No or little fiscal impact.

## ***DIVISION VI: Controlled Substance — Precursor Substances***

### **Description**

The Bill classifies twelve substances as a Schedule I controlled substance under Iowa Code section [124.204\(9\)](#). Penalties for these substances will range from a serious misdemeanor (first offense of unlawful possession) to a Class B or Class C felony (for manufacturing and delivery).

The Bill adds one substance as a Schedule II controlled substance under Iowa Code section 124.206. Penalties for this substance will range from a serious misdemeanor (first offense of unlawful possession) to a Class C felony (for manufacturing and delivery).

The Bill also adds one substance as a precursor substance for purposes of reporting requirements in Iowa Code section [124B.2](#). Penalties for this substance will be a Class C felony (for manufacturing and delivery).

### **Assumption**

This change conforms Iowa Code to current federal law.

### **Fiscal Impact**

No or little fiscal impact.

### **Correctional Impact**

This Division is estimated to result in minimal correctional impact. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

### **Minority Impact**

The minority impact of this Division is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to the minorities in the criminal justice system.

## ***DIVISION VII: Good Samaritan Immunity***

### **Description**

Creates a good Samaritan protection ensuring that a person seeking treatment for a drug-related overdose, or a person seeking medical treatment for a person experiencing a drug-related overdose, cannot be arrested or prosecuted for certain controlled substances-related violations on the basis of information collected or derived from the person's actions in seeking medical assistance.

### **Assumptions**

The Department of Human Rights, Criminal and Juvenile Justice Planning Division is unable to estimate how many charges or convictions were the result of overdoses.

### **Fiscal Impact**

No or little fiscal impact.

### **Correctional Impact**

This Division is estimated to result in minimal correctional impact. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

**Minority Impact**

The minority impact of this Division is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to the minorities in the criminal justice system.

**ALL DIVISIONS**

**Fiscal Impact – All Divisions**

No impact to the General Fund is expected. Since the Board of Pharmacy operates using fees for professional licensure and regulation, the Board will need to evaluate the overall fee schedule and budget to ensure that revenues align with expenses, and will need to adjust both of those categories as necessary. Total estimated revenues and expenditures are outlined in the following table.

<b>Estimated Impact of HF 2377</b>			
	<b><u>FY 2019</u></b>	<b><u>FY 2020</u></b>	<b><u>FY 2021</u></b>
<b>Division I</b>			
PMP Reporting for First Responders	\$ -75,000	\$ 0	\$ 0
PMP Surcharge	189,000	250,000	189,000
Subtotal Division I	<u>\$ 114,000</u>	<u>\$ 250,000</u>	<u>\$ 189,000</u>
<b>Division III</b>			
Prescriber Activity Report (AWARxE)	\$ -10,000	\$ 0	\$ 0
NarxCare	-186,000	-186,000	-186,000
Subtotal Division III	<u>\$ -196,000</u>	<u>\$ -186,000</u>	<u>\$ -186,000</u>
<b>Division IV</b>			
Proactive Notification (0.5 FTE position)	\$ -67,000	\$ -64,000	\$ -64,000
Subtotal Division IV	<u>\$ -67,000</u>	<u>\$ -64,000</u>	<u>\$ -64,000</u>
<b>Grand Total</b>	<b><u>\$ -149,000</u></b>	<b><u>\$ 0</u></b>	<b><u>\$ -61,000</u></b>

**Correctional Impact – All Divisions**

The Bill is estimated to result in minimal correctional impact. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2018, for information related to the correctional system.

**Minority Impact – All Divisions**

The minority impact of the Bill is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 29, 2018, for information related to the minorities in the criminal justice system.

**Sources**

Board of Pharmacy

Department of Human Rights, Criminal and Juvenile Justice Planning Division

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/s/ Holly M. Lyons

February 26, 2018

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The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.  
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