

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 833 - Pharmacy Practice Act (LSB 1292 HZ.1)

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Fiscal Note Version - As Amended and Passed by the House

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**Description**

House File 833, as amended and passed by the House, authorizes the Board of Pharmacy Examiners to establish and administer a prescription drug database that maintains a record regarding the dispensing of prescriptions for identified controlled substances and prescription drugs, provides the requirements for reportable data, and identifies those who are authorized to request information from the database. The Board is required to review data and to notify the appropriate law enforcement agency or government entity of violations. The Board is also required to adopt administrative rules for the implementation of the database and to establish an advisory council to oversee the database. A civil penalty of up to \$25,000 may be imposed by the Board for each violation of reporting requirements relating to the prescription drug database.

The Bill also amends various definitions with regard to the practice of pharmacy, modifies requirements for a pharmacy license application, authorizes the Board of Pharmacy Examiners to define specific types of wholesaler licenses, and requires licensed wholesalers to report specific occurrences to the Board. In addition, the Bill extends prohibitions against the use of the words, "apothecary," "drug," "drug store," or "pharmacy" by entities other than pharmacies or wholesalers.

The Bill implements a graduated system of penalties for prohibited acts in relation to the practice of pharmacy. The penalties include a serious misdemeanor, an aggravated misdemeanor, a Class D felony, and numerous Class C felonies.

In addition, HF 833 authorizes the Board of Pharmacy Examiners to request and obtain criminal history data for any pharmacist, pharmacist-intern, or pharmacy technician applicant and for all owners, managers, and principal employees of a pharmacy or drug wholesaler applicant, as well as provides for the collection of fees from these applicants for this purpose and allows the Board to process these fees as repayment receipts.

**Background**

1. The Board of Pharmacy Examiners has imposed a civil penalty of \$25,000 for three violations relating to the practice of pharmacy in the last 14 years.
2. In FY 2004, there were 221 convictions for crimes relating to the practice of pharmacy under Chapter 155A, Code of Iowa. Of these, 132 were for unlawful possession of prescription drugs, while 85 were for violations relating directly to pharmacies.
3. The average State costs for one serious misdemeanor conviction ranges from \$101 (court costs) to \$4,100 (court costs, jury trial, indigent defense, prison, and parole).
4. The average State costs for one aggravated misdemeanor conviction ranges from \$1,100 (court costs and probation) to \$5,700 (court costs, jury trial, indigent defense, prison, and parole).
5. The average State costs for one Class D felony conviction ranges from \$2,800 (court costs, probation, and indigent defense) to \$12,000 (court costs, jury trial, indigent defense, prison, and parole).

6. The average State costs for one Class C felony conviction ranges from \$3,100 (court costs, indigent defense, and probation) to \$23,000 (court costs, jury trial, indigent defense, prison, and parole).
7. The maximum costs will be incurred across multiple years while the offender is supervised in the correctional system, either in prison or in the community.

### **Assumptions**

1. The Board of Pharmacy Examiners has been awarded a federal grant to cover planning and implementation costs associated with the prescription drug database and will continue to receive federal funds to maintain and improve the database.
2. There is no data available to project the impact of the Bill on the Justice System with regard to the expansion of prohibited acts and criminal penalties relating to the practice of pharmacy under the provisions of the Bill.
3. The Board of Pharmacy Examiners will hold four meetings to develop administrative rules to implement the provisions of the Bill in relation to drug wholesalers, criminal history background checks, and pharmacy continuous quality improvement programs at a cost of \$350 per meeting, which will be incurred in the first year only.
4. The Board of Pharmacy Examiners will require criminal history record checks on an estimated 1,650 licensees, registrants, and applicants annually at a cost of \$47.00 each.
5. Drug wholesalers with credential under the National Association of Boards of Pharmacy Verified-Accredited Wholesale Distributors Program and criminal history record checks performed pursuant to the Program will be accepted by the Board of Pharmacy Examiners.

### **Correctional Impact**

The creation of new offenses carries the potential for a correctional impact on court caseloads, prisons, county jails, Community-Based Corrections (CBC), and indigent defense resources. However, due to a lack of data, that correctional impact cannot be estimated.

The number of new serious or aggravated misdemeanor or Class D felony convictions under HF 833 cannot be determined due to a lack of data. It is anticipated, however, that there will not be a significant number of new convictions as these types of professional business violations are infrequent.

The number of new Class C felony convictions under HF 833 cannot be determined due to a lack of data. Due to the significant number of individuals employed in wholesale operations, however, the correctional impact could be substantial.

### **Fiscal Impact**

The fiscal impact of HF 833 on the Justice System cannot be determined due to insufficient information. The fiscal impact may be substantial, if the number of Class C felony convictions of wholesalers is significant.

The fiscal impact of HF 833 on the Department of Public Health, Board of Pharmacy Examiners, to establish and maintain the prescription drug database is estimated to be an increase of \$369,000 and 2.00 FTE positions in FY 2006 and \$224,000 in FY 2007, which will be paid from federal funds. The cost to adopt administrative rules in relation to drug wholesalers, criminal history background checks, and pharmacy continuous quality improvement programs is anticipated to be minimal (\$1,400) in FY 2006.

It is also anticipated that the Board will collect an estimated \$78,000 annually in repayment receipts from applicants to cover the cost of criminal history background checks. The Board anticipates imposing few, if any, civil penalties in relation to violations of reporting requirements in relation to the prescription drug database.

**Sources**

Department of Corrections  
Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Public Health, Board of Pharmacy Examiners  
Judicial Branch  
Office of the Attorney General  
Office of the State Public Defender

/s/ Holly M. Lyons

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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