



CHESTER J. CULVER  
GOVERNOR

**OFFICE OF THE GOVERNOR**

PATTY JUDGE  
LT. GOVERNOR

April 17, 2009

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
L O C A L

Dear Mr. Secretary:

I hereby transmit:

**House File 381**, an Act relating to the practice of pharmacy by establishing a registration program for pharmacy support persons and regulating the internet sale of prescription products, including a program of registration of pharmacy internet sites, making penalties applicable, and establishing a general definition for the term "internet site".

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





HOUSE FILE 381

AN ACT

RELATING TO THE PRACTICE OF PHARMACY BY ESTABLISHING A REGISTRATION PROGRAM FOR PHARMACY SUPPORT PERSONS AND REGULATING THE INTERNET SALE OF PRESCRIPTION PRODUCTS, INCLUDING A PROGRAM OF REGISTRATION OF PHARMACY INTERNET SITES, MAKING PENALTIES APPLICABLE, AND ESTABLISHING A GENERAL DEFINITION FOR THE TERM "INTERNET SITE".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 4.1, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 9B. "Internet site" means a specific location on the internet that is determined by internet protocol numbers, by a domain name, or by both, including but not limited to domain names that use the designations ".com", ".edu", ".gov", ".org", and ".net".

Sec. 2. Section 155A.2, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A family planning clinic is not regulated by this chapter when engaged in the dispensing of birth control drugs and devices pursuant to section 147.107, subsection 7.

Sec. 3. NEW SECTION. 155A.6B PHARMACY SUPPORT PERSON REGISTRATION.

1. The board shall establish a registration program for pharmacy support persons who work in a licensed pharmacy and who are not licensed pharmacists or registered pharmacy technicians for the purposes of identification, tracking, and disciplinary action for the violation of federal drug laws or regulations, state drug or pharmacy laws, or board rules. The

registration shall not include any determination of the competency of the registered individual and, notwithstanding section 272C.2, subsection 1, shall not require continuing education for renewal.

2. A person registered with the board as a pharmacy support person may assist pharmacists by performing routine clerical and support functions. Such a person shall not perform any professional duties or any technical or dispensing duties. The ultimate responsibility for the actions of a pharmacy support person working under a licensed pharmacist's supervision shall remain with the licensed pharmacist.

3. Applicants for registration must apply to the board for registration on a form prescribed by the board.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy support persons, and pharmacy support person exemptions, registration, application, renewals, fees, termination of registration, training, and any other relevant matters.

5. The board may deny, suspend, or revoke the registration of a pharmacy support person or otherwise discipline the pharmacy support person for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, 205, or 272C, or any rule of the board.

Sec. 4. NEW SECTION. 155A.13B PHARMACY INTERNET SITES.

1. As used in this section:

a. "Electronic mail" means any message transmitted through the internet including but not limited to messages transmitted from or to any address affiliated with an internet site.

b. "Internet broker" means an entity that serves as an agent or intermediary or other capacity that causes the internet to be used to bring together a buyer and seller.

c. "Internet sale" means a transaction, initiated via an internet site, that includes the order of and the payment for a prescription drug product.

2. A pharmacy operating within or outside this state shall not sell, dispense, distribute, deliver, or participate in the sale, dispensing, distribution, or delivery of any prescription drug to any patient in this state through an

internet site or by electronic mail unless all of the following are met:

a. All internet sites and electronic mail used by the pharmacy for purposes of sales or delivery of a prescription-only drug are in compliance with all requirements of federal law applicable to the site or electronic mail.

b. (1) The pharmacy that sells, dispenses, distributes, or delivers the prescription-only drugs is in compliance with all requirements of relevant state law.

(2) The pharmacy is properly licensed and regulated by the board to operate a pharmacy pursuant to section 155A.13 or 155A.13A.

c. The pharmacist who fills the prescription drug order is not in violation of subsection 4.

d. (1) The pharmacy is not in violation of subsection 6.

(2) The pharmacy is in compliance with an Iowa prescription drug monitoring program if an Iowa prescription drug monitoring program exists and the pharmacy is subject to reporting or other requirements of the program.

3. A practitioner who writes a prescription drug order through an internet site or electronic mail for a patient physically located in this state must be licensed by the applicable licensing authority and in compliance with all applicable laws.

4. A pharmacist practicing within or outside this state shall not fill a prescription drug order to dispense a prescription drug to a patient if the pharmacist knows or reasonably should have known under the circumstances that the prescription drug order was issued under both of the following:

a. Solely on the basis of an internet questionnaire, an internet consultation, or a telephonic consultation.

b. Without a valid patient-practitioner relationship.

5. An internet broker operating within or outside this state may participate in the sale of a prescription drug in this state only if the internet broker knows that the pharmacist who dispenses the drug is not in violation of subsection 4.

6. A pharmacy shall not sell, dispense, distribute, deliver, or participate in the sale, dispensing, distribution,

or delivery of any prescription-only drug to a consumer in this state if any part of the transaction was conducted through an internet site unless the internet site displays in a clear and conspicuous manner all of the following:

- a. The name of the pharmacy.
- b. The address of the licensed physical location of the pharmacy.
- c. The telephone number of the pharmacy.
- d. The license number issued by the board to the pharmacy.
- e. The certification issued by the national association of boards of pharmacy identifying the pharmacy as a verified internet pharmacy practice sites site, the verified internet pharmacy practice site's seal, and a link to the national association of boards of pharmacy's verification site, except that verified internet pharmacy practice sites certification shall not be required of a pharmacy that utilizes an internet site for the convenience of a patient to request a prescription refill or to request or retrieve drug information but requires that the filled prescription be delivered to the patient at the licensed physical location of the pharmacy.
- f. The internet site registration number issued by the board.

7. A pharmacy that sells, dispenses, distributes, delivers, prescribes, or participates in the sale, dispensing, distribution, or delivery of any prescription drug to any patient in this state, if the patient submitted the purchase order for the prescription drug through an internet site or by electronic mail, shall not disclaim, limit, or waive any liability to which the pharmacy otherwise is subject under law for the act or practice of selling, dispensing, distributing, or delivering prescription drugs.

8. A disclaimer, limitation, or waiver in violation of this section is void.

9. An attempt to make a disclaimer, limitation, or waiver in violation of this section is a violation of this chapter.

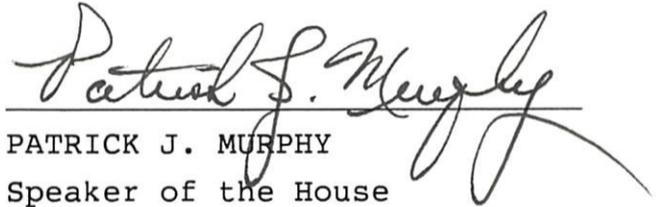
10. For purposes of this section, the board shall adopt rules in accordance with chapter 17A on matters pertaining to internet site registration, application, forms, renewals, fees, termination of registration, and any other relevant matters.

Sec. 5. Section 155A.27, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Each To be valid, each prescription drug order issued or filled dispensed in this state must be based on a valid patient-practitioner relationship, and:

Sec. 6. Section 155A.29, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An authorization to refill a prescription drug order may be transmitted to a pharmacist by a prescriber or the prescriber's 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 and, if not transmitted directly by the practitioner, shall identify by name and title the practitioner's agent completing the transmission.

  
PATRICK J. MURPHY  
Speaker of the House

  
JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 381, Eighty-third General Assembly.

  
MARK BRANDSGARD  
Chief Clerk of the House

Approved April 17<sup>th</sup>, 2009

  
CHESTER J. CULVER  
Governor