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BY COMMITTEE ON STATE
GOVERNMENT

(Formerly House Study Bill 143)

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Vote: Ayes 94 Nays 2 Vote: Ayes 49 Nays 0

Approved June 5, 1987

A BILL FOR

1 An Act relating to the regulation of pharmacists and pharmacies
2 and to administration, dispensing, and distribution of certain
3 drugs, and providing penalties.

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

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HF 594

1 Section 1. NEW SECTION. 155A.1 SHORT TITLE.

2 This chapter may be cited as the "Iowa Pharmacy Practice
3 Act."

4 Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION --
5 PURPOSE.

6 1. It is the purpose of this chapter to promote, preserve,
7 and protect the public health, safety, and welfare through the
8 effective regulation of the practice of pharmacy and the
9 licensing of pharmacies, pharmacists, and others engaged in
10 the sale, delivery, or distribution of prescription drugs and
11 devices or other classes of drugs or devices which may be
12 authorized.

13 2. Practitioners licensed under a separate chapter of the
14 Code are not regulated by this chapter except when engaged in
15 the operation of a pharmacy for the retailing of prescription
16 drugs.

17 Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

18 As used in this chapter, unless the context otherwise
19 requires:

20 1. "Administer" means the direct application of a
21 prescription drug, whether by injection, inhalation,
22 ingestion, or any other means, to the body of a patient or
23 research subject by one of the following:

24 a. A practitioner or the practitioner's authorized agent.

25 b. The patient or research subject at the direction of a
26 practitioner.

27 2. "Authorized agent" means an individual designated by a
28 practitioner who is under the supervision of the practitioner
29 and for whom the practitioner assumes legal responsibility.

30 3. "Board" means the board of pharmacy examiners.

31 4. "Brand name" or "trade name" means the registered
32 trademark name given to a drug product or ingredient by its
33 manufacturer, labeler, or distributor.

34 5. "College of pharmacy" means a school, university, or
35 college of pharmacy that satisfies the accreditation standards

1 of the American council on pharmaceutical education as adopted
2 by the board, or that has degree requirements which meet the
3 standards of accreditation adopted by the board.

4 6. "Controlled substance" means a drug substance,
5 immediate precursor, or other substance listed in division II
6 of chapter 204.

7 7. "Controlled substances Act" means chapter 204.

8 8. "Deliver" or "delivery" means the actual, constructive,
9 or attempted transfer of a prescription drug or device or
10 controlled substance from one person to another, whether or
11 not for a consideration.

12 9. "Demonstrated bioavailability" means the rate and
13 extent of absorption of a drug or drug ingredient from a
14 specified dosage form, as reflected by the time-concentration
15 curve of the drug or drug ingredient in the systemic
16 circulation.

17 10. "Device" means an instrument, apparatus, implement,
18 machine, contrivance, implant, in vitro reagent, or other
19 similar or related article, including any component part or
20 accessory, that is required under federal or state law to be
21 ordered or prescribed by a practitioner.

22 11. "Dispense" means to deliver a prescription drug or
23 controlled substance to an ultimate user or research subject
24 by or pursuant to the lawful prescription drug order or
25 medication order of a practitioner, including the prescribing,
26 administering, packaging, labeling, or compounding necessary
27 to prepare the substance for that delivery.

28 12. "Distribute" means the delivery of a prescription drug
29 or device.

30 13. "Drug" means one or more of the following:

31 a. A substance recognized as a drug in the current
32 official United States Pharmacopoeia and National Formulary,
33 official Homeopathic Pharmacopoeia, or other drug compendium
34 or any supplement to any of them.

35 b. A substance intended for use in the diagnosis, cure,

1 mitigation, treatment, or prevention of disease in humans or
2 other animals.

3 c. A substance, other than food, intended to affect the
4 structure or any function of the body of humans or other
5 animals.

6 d. A substance intended for use as a component of any
7 substance specified in paragraph "a", "b", or "c".

8 e. A controlled substance.

9 14. "Drug product selection" means the act of selecting
10 the source of supply of a drug product.

11 15. "Generic name" means the official title of a drug or
12 drug ingredient published in the current official United
13 States Pharmacopoeia and National Formulary, official
14 Homeopathic Pharmacopoeia, or other drug compendium published
15 by the United States pharmacopoeial convention or any
16 supplement to any of them.

17 16. "Internship" means a practical experience program
18 approved by the board for persons training to become
19 pharmacists.

20 17. "Label" means written, printed, or graphic matter on
21 the immediate container of a drug or device.

22 18. "Labeling" means the process of preparing and affixing
23 a label including information required by federal or state law
24 or regulation to a drug or device container. The term does
25 not include the labeling by a manufacturer, packer, or
26 distributor of a nonprescription drug or commercially packaged
27 prescription drug or device or unit dose packaging.

28 19. "Medication order" means a written order from a
29 practitioner or an oral order from a practitioner or the
30 practitioner's authorized agent for administration of a drug
31 or device.

32 20. "Pharmacist" means a person licensed by the board to
33 practice pharmacy.

34 21. "Pharmacist in charge" means the pharmacist designated
35 on a pharmacy license as the pharmacist who has the authority

1 and responsibility for the pharmacy's compliance with laws and
2 rules pertaining to the practice of pharmacy.

3 22. "Pharmacist-intern" means an undergraduate student
4 enrolled in the professional sequence of a college of pharmacy
5 approved by the board, or a graduate of a college of pharmacy,
6 who is participating in a board-approved internship under the
7 supervision of a preceptor.

8 23. "Pharmacy" means a location where prescription drugs
9 are compounded, dispensed, or sold by a pharmacist and where
10 prescription drug orders are received or processed in
11 accordance with the pharmacy laws.

12 24. "Pharmacy license" means a license issued to a
13 pharmacy or other place where prescription drugs or devices
14 are dispensed to the general public pursuant to a prescription
15 drug order.

16 25. "Practice of pharmacy" is a dynamic patient-oriented
17 health service profession that applies a scientific body of
18 knowledge to improve and promote patient health by means of
19 appropriate drug use and related drug therapy.

20 26. "Practitioner" means a physician, dentist, podiatrist,
21 veterinarian, or other person licensed or registered to
22 distribute or dispense a prescription drug or device in the
23 course of professional practice in this state or a person
24 licensed by another state in a health field in which, under
25 Iowa law, licensees in this state may legally prescribe drugs.

26 27. "Preceptor" means a pharmacist in good standing
27 licensed in this state to practice pharmacy and approved by
28 the board to supervise and be responsible for the activities
29 and functions of a pharmacist-intern in the internship
30 program.

31 28. "Prescription drug" means any of the following:

32 a. A substance for which federal or state law requires a
33 prescription before it may be legally dispensed to the public.

34 b. A drug or device that under federal law is required,
35 prior to being dispensed or delivered, to be labeled with

1 either of the following statements:

2 (1) Caution: Federal law prohibits dispensing without a
3 prescription.

4 (2) Caution: Federal law restricts this drug to use by or
5 on the order of a licensed veterinarian.

6 c. A drug or device that is required by any applicable
7 federal or state law or regulation to be dispensed on
8 prescription only, or is restricted to use by a practitioner
9 only.

10 29. "Prescription drug order" means a written order from a
11 practitioner or an oral order from a practitioner or the
12 practitioner's authorized agent who communicates the
13 practitioner's instructions, to a pharmacist for a
14 prescription drug or device to be dispensed.

15 30. "Proprietary medicine" means a nonnarcotic drug or
16 device that may be sold without a prescription and that is
17 labeled and packaged in compliance with applicable state or
18 federal law.

19 31. "Ultimate user" means a person who has lawfully
20 obtained and possesses a prescription drug or device for the
21 person's own use or for the use of a member of the person's
22 household or for administering to an animal owned by the
23 person or by a member of the person's household.

24 32. "Unit dose packaging" means the packaging of
25 individual doses of a drug in containers which preserve the
26 identity and integrity of the drug from the point of packaging
27 to administration and which are properly labeled pursuant to
28 rules of the board.

29 33. "Wholesaler" means a person operating or maintaining,
30 either within or outside this state, a manufacturing plant,
31 wholesale distribution center, wholesale business, or any
32 other business in which prescription drugs, medicinal
33 chemicals, medicines, or poisons are sold, manufactured,
34 compounded, dispensed, stocked, exposed, or offered for sale
35 at wholesale in this state. "Wholesaler" does not include

1 those wholesalers who sell only proprietary medicines.

2 Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST
3 UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION
4 DRUGS -- EXCEPTIONS.

5 1. A person shall not dispense prescription drugs unless
6 that person is a licensed pharmacist or is authorized by
7 section 147.107 to dispense or distribute prescription drugs.

8 2. Notwithstanding subsection 1, it is not unlawful for:

9 a. A manufacturer or wholesaler to distribute prescription
10 drugs as provided by state or federal law.

11 b. A practitioner, licensed by the appropriate state
12 board, to dispense prescription drugs to patients as incident
13 to the practice of the profession, except with respect to the
14 operation of a pharmacy for the retailing of prescription
15 drugs.

16 c. A practitioner, licensed by the appropriate state
17 board, to administer drugs to patients. This chapter does not
18 prevent a practitioner from delegating the administration of a
19 prescription drug to a nurse, intern, or other qualified
20 individual or, in the case of a veterinarian, to an orderly or
21 assistant, under the practitioner's direction and supervision.

22 d. A person to sell at retail a proprietary medicine, an
23 insecticide, a fungicide, or a chemical used in the arts, if
24 properly labeled.

25 e. A person to procure prescription drugs for lawful
26 research, teaching, or testing and not for resale.

27 f. A pharmacy to distribute a prescription drug to another
28 pharmacy or to a practitioner.

29 Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

30 Notwithstanding the existence or pursuit of any other
31 remedy the board may, in the manner provided by law, maintain
32 an action in the name of the state for injunction or other
33 process against any person to restrain or prevent the
34 establishment, conduct, management, or operation of a pharmacy
35 or wholesaler, without license, or to prevent the violation of

1 provisions of this chapter. Upon request of the board, the
2 attorney general shall institute the proper proceedings and
3 the county attorney, at the request of the attorney general,
4 shall appear and prosecute the action when brought in the
5 county attorney's county.

6 Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS -- PHARMACIST-
7 INTERN REGISTRATION.

8 1. A program of pharmacist internships is established.
9 Each internship is subject to approval by the board.

10 2. A person desiring to be a pharmacist-intern in this
11 state shall apply to the board for registration. The
12 application must be on a form prescribed by the board. A
13 pharmacist-intern must be registered during internship
14 training and thereafter pursuant to rules adopted by the
15 board.

16 3. The board shall establish standards for registration
17 and may deny, suspend, or revoke a pharmacist-intern
18 registration for failure to meet the standards or for any
19 violation of this chapter.

20 4. The board shall adopt rules in accordance with chapter
21 17A on matters pertaining to registration standards,
22 registration fees, conditions of registration, termination of
23 registration, and approval of preceptors.

24 Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

25 A person shall not engage in the practice of pharmacy in
26 this state without a license. The license shall be identified
27 as a pharmacist license.

28 Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST
29 LICENSE.

30 To qualify for a pharmacist license, an applicant shall
31 meet the following requirements:

32 1. Be a graduate of a school or college of pharmacy or of
33 a department of pharmacy of a university recognized and
34 approved by the board.

35 2. File proof, satisfactory to the board, of internship

1 for a period of time fixed by the board.

2 3. Pass an examination prescribed by the board.

3 Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES --
4 GRADUATES OF FOREIGN COLLEGES.

5 1. A college of pharmacy shall not be approved by the
6 board unless the college is accredited by the American council
7 on pharmaceutical education.

8 2. An applicant who is a graduate of a school or college
9 of pharmacy located outside the United States but who is
10 otherwise qualified to apply for a pharmacist license in this
11 state may be deemed to have satisfied the requirements of
12 section 155A.8, subsection 1, by verification to the board of
13 the applicant's academic record and graduation and by meeting
14 other requirements established by rule of the board. The
15 board may require the applicant to pass an examination or
16 examinations given or approved by the board to establish
17 proficiency in English and equivalency of education as a
18 prerequisite for taking the licensure examination required in
19 section 155A.8, subsection 3.

20 Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST
21 LICENSE.

22 A pharmacist shall publicly display the license to practice
23 pharmacy and the license renewal certificate pursuant to rules
24 adopted by the board.

25 Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST
26 LICENSE.

27 The board shall specify by rule the procedures to be
28 followed and the fee to be paid for a renewal certificate, and
29 penalties for late renewal or failure to renew a pharmacist
30 license.

31 Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE --
32 GROUNDS FOR DISCIPLINE.

33 The board shall refuse to issue a pharmacist license for
34 failure to meet the requirements of section 155A.8. The board
35 may refuse to issue or renew a license or may impose a fine,

1 issue a reprimand, or revoke, restrict, cancel, or suspend a
2 license, and may place a licensee on probation, if the board
3 finds that the applicant or licensee has done any of the
4 following:

5 1. Violated any provision of this chapter or any rules of
6 the board adopted under this chapter.

7 2. Engaged in unethical conduct as that term is defined by
8 rules of the board.

9 3. Violated any of the provisions for licensee discipline
10 set forth in section 147.55.

11 4. Failed to keep and maintain records required by this
12 chapter or failed to keep and maintain complete and accurate
13 records of purchases and disposal of drugs listed in the
14 controlled substances Act.

15 5. Violated any provision of the controlled substances Act
16 or rules relating to that Act.

17 6. Aided or abetted an unlicensed individual to engage in
18 the practice of pharmacy.

19 7. Refused an entry into any pharmacy for any inspection
20 authorized by this chapter.

21 8. Violated the pharmacy or drug laws or rules of any
22 other state of the United States while under the other state's
23 jurisdiction.

24 9. Been convicted of an offense or subjected to a penalty
25 or fine for violation of chapter 147, 203, 203A, 204, or the
26 Federal Food, Drug and Cosmetic Act. A plea or verdict of
27 guilty, or a conviction following a plea of nolo contendere,
28 is deemed to be a conviction within the meaning of this
29 section.

30 10. Had a license to practice pharmacy issued by another
31 state canceled, revoked, or suspended for conduct
32 substantially equivalent to conduct described in subsections 1
33 through 9. A certified copy of the record of the state taking
34 action as set out above shall be conclusive evidence of the
35 action taken by such state.

1 Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

2 1. A person shall not establish, conduct, or maintain a
3 pharmacy in this state without a license. The license shall
4 be identified as a pharmacy license.

5 2. The board shall specify by rule the licensing
6 procedures to be followed, including specifications of forms
7 for use in applying for a pharmacy license and fees for filing
8 an application.

9 3. The board may issue a special or limited-use pharmacy
10 license based upon special conditions of use imposed pursuant
11 to rules adopted by the board for cases in which the board
12 determines that certain requirements may be waived.

13 4. To qualify for a pharmacy license, the applicant shall
14 submit to the board a license fee as determined by the board
15 and a completed application on a form prescribed by the board
16 that shall include the following information and be given
17 under oath:

18 a. Ownership.

19 b. Location.

20 c. The license number of each pharmacist employed by the
21 pharmacy at the time of application.

22 d. The trade or corporate name of the pharmacy.

23 e. The name of the pharmacist in charge, who has the
24 authority and responsibility for the pharmacy's compliance
25 with laws and rules pertaining to the practice of pharmacy.

26 5. A person who falsely makes the affidavit prescribed in
27 subsection 4 is subject to all penalties prescribed for making
28 a false affidavit.

29 6. A pharmacy license issued by the board under this
30 chapter shall be issued in the name of the pharmacist in
31 charge and is not transferable or assignable.

32 7. The board shall specify by rule minimum standards for
33 professional responsibility in the conduct of a pharmacy.

34 8. A separate license is required for each principal place
35 of practice.

1 9. The license of the pharmacy shall be displayed.

2 Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY
3 LICENSE.

4 The board shall specify by rule the procedures to be
5 followed and the fee to be paid for a renewal certificate, and
6 the penalties for late renewal or failure to renew a pharmacy
7 license.

8 Sec. 15. NEW SECTION. 155A.15 PHARMACIES -- LICENSE
9 REQUIRED -- DISCIPLINE, VIOLATIONS, AND PENALTIES.

10 1. A pharmacy subject to section 155A.13 shall not be
11 operated until a license or renewal certificate has been
12 issued to the pharmacy by the board.

13 2. The board shall refuse to issue a pharmacy license for
14 failure to meet the requirements of section 155A.13. The
15 board may refuse to issue or renew a license or may impose a
16 fine, issue a reprimand, or revoke, restrict, cancel, or
17 suspend a license, and may place a licensee on probation, if
18 the board finds that the applicant or licensee has done any of
19 the following:

20 a. Been convicted of a felony or a misdemeanor involving
21 moral turpitude, or if the applicant is an association, joint
22 stock company, partnership, or corporation, that a managing
23 officer has been convicted of a felony or a misdemeanor
24 involving moral turpitude, under the law of this state,
25 another state, or the United States.

26 b. Advertised any prescription drugs or devices in a
27 deceitful, misleading, or fraudulent manner.

28 c. Violated any provision of this chapter or any rule
29 adopted under this chapter or that any owner or employee of
30 the pharmacy has violated any provision of this chapter or any
31 rule adopted under this chapter.

32 d. Delivered without legal authorization prescription
33 drugs or devices to a person other than one of the following:

34 (1) A pharmacy licensed by the board.

35 (2) A practitioner.

1 (3) A person who procures prescription drugs or devices
2 for the purpose of lawful research, teaching, or testing, and
3 not for resale.

4 (4) A manufacturer or wholesaler licensed by the board.
5 However, this chapter does not prohibit a pharmacy from
6 furnishing a prescription drug or device to a licensed health
7 care facility for storage in a secured emergency
8 pharmaceutical supplies container maintained within the
9 facility in accordance with regulations of the Iowa department
10 of public health.

11 e. Allowed an employee who is not a licensed pharmacist to
12 practice pharmacy.

13 f. Delivered mislabeled prescription or nonprescription
14 drugs.

15 g. Failed to engage in or ceased to engage in the business
16 described in the application for a license.

17 h. Failed to keep and maintain records as required by this
18 chapter, the controlled substances Act, or rules adopted under
19 the controlled substances Act.

20 i. Failed to establish effective controls against
21 diversion of prescription drugs into other than legitimate
22 medical, scientific, or industrial channels as provided by
23 this chapter and other Iowa or federal laws or rules.

24 Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

25 Unless otherwise provided, any disciplinary action taken by
26 the board under section 155A.12 or 155A.15 is governed by
27 chapter 17A and the rules of practice and procedure before the
28 board.

29 Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

30 A person shall not establish, conduct or maintain a
31 wholesale drug business as defined in this chapter without a
32 license. The license shall be identified as a wholesale drug
33 license.

34 Sec. 18. NEW SECTION. 155A.18 PENALTIES.

35 The board shall impose penalties as allowed under section

1 258A.3. In addition, civil penalties not to exceed twenty-
2 five thousand dollars, may be imposed.

3 Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

4 1. A pharmacy shall report in writing to the board,
5 pursuant to its rules, the following:

6 a. Permanent closing.

7 b. Change of ownership.

8 c. Change of location.

9 d. Change of pharmacist in charge.

10 e. The sale or transfer of prescription drugs, including
11 controlled substances, on the permanent closing or change of
12 ownership of the pharmacy.

13 f. Out-of-state purchases of controlled substances.

14 g. Theft or significant loss of any controlled substance
15 on discovery of the theft or loss.

16 h. Disasters, accidents, and emergencies that may affect
17 the strength, purity, or labeling of drugs, medications,
18 devices, or other materials used in the diagnosis or the
19 treatment of injury, illness, and disease.

20 2. A pharmacist shall report in writing to the board
21 within ten days a change of address or place of employment.

22 Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND
23 TITLES -- IMPERSONATION.

24 1. A person shall not display in or on any store or place
25 of business the word or words: "apothecary", "drug", "drug
26 store", or "pharmacy", either in English or any other
27 language, any other word or combination of words of the same
28 or similar meaning, or any graphic representation that would
29 mislead the public unless it is a pharmacy or drug wholesaler
30 licensed under this chapter.

31 2. A person shall not do any of the following:

32 a. Impersonate before the board an applicant applying for
33 licensing under this chapter.

34 b. Impersonate an Iowa licensed pharmacist.

35 c. Use the title pharmacist, druggist, apothecary, or

1 words of similar intent unless the person is licensed to
2 practice pharmacy.

3 3. A pharmacist shall not utilize the title "Dr." or
4 "Doctor" if that pharmacist has not acquired the doctor of
5 pharmacy degree from an approved college of pharmacy or the
6 doctor of philosophy degree in an area related to pharmacy.

7 Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF
8 PRESCRIPTION DRUG -- PENALTY.

9 1. A person found in possession of a drug limited to
10 dispensation by prescription, unless the drug was so lawfully
11 dispensed, commits a serious misdemeanor.

12 2. Subsection 1 does not apply to a licensed pharmacy,
13 licensed wholesaler, physician, veterinarian, dentist,
14 podiatrist, therapeutically certified optometrist, a nurse
15 acting under the direction of a physician, or the board of
16 pharmacy examiners, its officers, agents, inspectors, and
17 representatives, nor to a common carrier or messenger when
18 transporting the drug in the same unbroken package in which
19 the drug was delivered to that person for transportation.

20 Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.

21 A person who violates any of the provisions of this chapter
22 or any chapter pertaining to or affecting the practice of
23 pharmacy for which a specific penalty is not provided commits
24 a simple misdemeanor.

25 Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.

26 A person shall not:

27 1. Obtain or attempt to obtain a prescription drug or
28 procure or attempt to procure the administration of a
29 prescription drug by:

30 a. Fraud, deceit, misrepresentation, or subterfuge.

31 b. Forgery or alteration of a prescription or of any
32 written order.

33 c. Concealment of a material fact.

34 d. Use of a false name or the giving of a false address.

35 2. Willfully make a false statement in any prescription,

1 report, or record required by this chapter.

2 3. For the purpose of obtaining a prescription drug,
3 falsely assume the title of or claim to be a manufacturer,
4 wholesaler, pharmacist, pharmacy owner, physician, dentist,
5 podiatrist, veterinarian, or other authorized person.

6 4. Make or utter any false or forged prescription or
7 written order.

8 5. Affix any false or forged label to a package or
9 receptacle containing prescription drugs.

10 Information communicated to a physician in an unlawful
11 effort to procure a prescription drug or to procure the
12 administration of a prescription drug shall not be deemed a
13 privileged communication.

14 Sec. 24. NEW SECTION. 155A.24 PENALTIES.

15 A person who violates a provision of section 155A.23 or who
16 sells or offers for sale, gives away, or administers to
17 another person any prescription drug commits a public offense
18 and shall be punished as follows:

19 If the prescription drug is a controlled substance, the
20 person shall be punished pursuant to section 204.401,
21 subsection 1, and section 204.411.

22 If the prescription drug is not a controlled substance, the
23 person, upon conviction of a first offense, is guilty of a
24 serious misdemeanor. For a second offense, or if in case of a
25 first offense the offender previously has been convicted of
26 any violation of the laws of the United States or of any
27 state, territory, or district thereof relating to prescription
28 drugs, the offender is guilty of an aggravated misdemeanor.

29 For a third or subsequent offense or if in the case of a
30 second offense the offender previously has been convicted two
31 or more times in the aggregate of any violation of the laws of
32 the United States or of any state, territory, or district
33 thereof relating to prescription drugs, the offender is guilty
34 of a class "D" felony.

35 A person who violates any provision of this chapter by

1 selling, giving away, or administering any prescription drug
2 to a minor is guilty of a class "C" felony.

3 This section does not prevent a licensed practitioner of
4 medicine, dentistry, podiatry, nursing, veterinary medicine,
5 or pharmacy from acts necessary in the ethical and legal
6 performance of the practitioner's profession.

7 Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

8 In any complaint, information, or indictment, and in any
9 action or proceeding brought for the enforcement of any
10 provisions of this chapter, it shall not be necessary to
11 negate any exception, excuse, proviso, or exemption contained
12 in this chapter, and the burden of proof of any such
13 exception, excuse, proviso, or exemption shall be upon the
14 defendant.

15 Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT -- AGENTS AS
16 PEACE OFFICERS.

17 The board of pharmacy examiners, its officers, agents,
18 inspectors, and representatives, and all peace officers within
19 the state, and all county attorneys shall enforce all
20 provisions of this chapter, except those specifically
21 delegated, and shall cooperate with all agencies charged with
22 the enforcement of the laws of the United States, of this
23 state, and of all other states relating to prescription drugs.
24 Officers, agents, inspectors, and representatives of the board
25 of pharmacy examiners shall have the powers and status of
26 peace officers when enforcing the provisions of this chapter.

27 Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR
28 PRESCRIPTION.

29 Each prescription drug order issued or filled in this
30 state:

31 1. If written, shall contain:

32 a. The date of issue.

33 b. The name and address of the patient for whom, or the
34 owner of the animal for which, the drug is dispensed.

35 c. The name, strength, and quantity of the drug, medicine,

1 or device prescribed.

2 d. The directions for use of the drug, medicine, or device
3 prescribed.

4 e. The name, address, and signature of the practitioner
5 issuing the prescription.

6 f. The federal drug enforcement administration number, if
7 required under chapter 204.

8 2. If oral, the practitioner issuing the prescription
9 shall furnish the same information required for a written
10 prescription, except for the written signature and address of
11 the practitioner. Upon receipt of an oral prescription, the
12 pharmacist shall promptly reduce the oral prescription to a
13 written format by recording the information required in a
14 written prescription.

15 Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION
16 DRUGS.

17 The label of any drug or device sold and dispensed on the
18 prescription of a practitioner shall be in compliance with
19 rules adopted by the board.

20 Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.

21 1. Except as specified in subsection 2, a prescription for
22 any prescription drug or device which is not a controlled
23 substance shall not be filled or refilled more than one year
24 after the date on which the prescription was issued and a
25 prescription which is authorized to be refilled shall not be
26 refilled more than eleven times.

27 2. A pharmacist may exercise professional judgment by
28 refilling a prescription without prescriber authorization if
29 all of the following are true:

30 a. The pharmacist is unable to contact the prescriber
31 after reasonable effort.

32 b. Failure to refill the prescription might result in an
33 interruption of therapeutic regimen or create patient
34 suffering.

35 c. The pharmacist informs the patient or the patient's

1 representative at the time of dispensing, and the practitioner
2 at the earliest convenience that prescriber reauthorization is
3 required.

4 3. Prescriptions may be refilled once pursuant to
5 subsection 2 for a period of time reasonably necessary for the
6 pharmacist to secure prescriber authorization.

7 Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION
8 ORDERS.

9 Prescription drug orders issued by out-of-state
10 practitioners who would be authorized to prescribe if they
11 were practicing in Iowa may be filled by licensed pharmacists
12 operating in licensed Iowa pharmacies.

13 Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

14 A licensed pharmacy in this state shall maintain a
15 reference library pursuant to rules of the board.

16 Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT SELECTION --
17 RESTRICTIONS.

18 1. If an authorized prescriber prescribes, either in
19 writing or orally, a drug by its brand or trade name, the
20 pharmacist may exercise professional judgment in the economic
21 interest of the patient by selecting a drug product with the
22 same generic name and demonstrated bioavailability as the one
23 prescribed for dispensing and sale to the patient. If the
24 pharmacist does so, the pharmacist shall inform the patient of
25 the savings which the patient will obtain as a result of the
26 drug product selection and pass on to the patient no less than
27 fifty percent of the difference in actual acquisition costs
28 between the drug prescribed and the drug substituted.

29 2. The pharmacist shall not exercise the drug product
30 selection described in this section if either of the following
31 is true:

32 a. The prescriber specifically indicates that no drug
33 product selection shall be made.

34 b. The person presenting the prescription indicates that
35 only the specific drug product prescribed should be dispensed.

1 3. If selection of a generically equivalent product is
2 made under this section, the pharmacist making the selection
3 shall note that fact and the name of the manufacturer of the
4 selected drug on the prescription presented by the patient or
5 the patient's adult representative.

6 Sec. 33. NEW SECTION. 155A.33 DELEGATION OF
7 NONJUDGMENTAL FUNCTIONS.

8 A pharmacist may delegate nonjudgmental dispensing
9 functions to assistants, but only if the pharmacist is
10 physically present to verify the accuracy and completeness of
11 the patient's prescription prior to delivery to the patient or
12 the patient's representative.

13 Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

14 A pharmacist may transfer a valid prescription order to
15 another pharmacist pursuant to rules adopted by the board.

16 Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION
17 RECORDS.

18 A licensed pharmacy shall maintain patient medication
19 records in accordance with rules adopted by the board.

20 Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY
21 SYSTEMS.

22 Drugs dispensed utilizing unit dose packaging shall comply
23 with labeling and packaging requirements in accordance with
24 rules adopted by the board.

25 Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL
26 RESPONSIBILITY FOR BOARD EMPLOYEES.

27 1. The board shall adopt a code of professional
28 responsibility to regulate the conduct of board employees
29 responsible for inspections and surveys of pharmacies.

30 2. The code shall contain a procedure to be followed by
31 personnel of the board in all of the following:

- 32 a. On entering a pharmacy.
- 33 b. During inspection of the pharmacy.
- 34 c. During the exit conference.

35 3. The code shall contain standards of conduct that

1 personnel of the board are to follow in dealing with the staff
2 and management of the pharmacy and the general public.

3 4. The board shall establish a procedure for receiving and
4 investigating complaints of violations of this code. The
5 board shall investigate all complaints of violations. The
6 results of an investigation shall be forwarded to the
7 complainant.

8 5. The board may adopt rules establishing sanctions for
9 violations of this code of professional responsibility.

10 Sec. 38. Section 106.12, subsection 2, Code 1987, is
11 amended to read as follows:

12 2. ~~No~~ A person shall not operate any vessel, or manipulate
13 any water skis, surfboard or similar device while under the
14 influence of an alcoholic beverage, marijuana, a narcotic,
15 hypnotic or other drug, or any combination of these
16 substances. However, this subsection ~~shall~~ does not apply to
17 a person operating any vessel or manipulating any water skis,
18 surfboard or similar device while under the influence of
19 marijuana, or a narcotic, hypnotic or other drug if the
20 substances were prescribed for the person and have been taken
21 under the prescription and in accordance with the directions
22 of a medical practitioner as defined in ~~section-155-37~~
23 ~~subsection-11~~ chapter 155A, provided there is no evidence of
24 the consumption of alcohol and further provided the medical
25 practitioner has not directed the person to refrain from
26 operating a motor vehicle, any vessel or from manipulating any
27 water skis, surfboard or similar device.

28 Sec. 39. Section 135.61, subsection 10, Code 1987, is
29 amended to read as follows:

30 10. "Health care provider" means a person licensed or
31 certified under chapter 147, 148, 148A, 148C, 149, 150, 150A,
32 151, 152, 153, 154, 154B, or ~~155~~ 155A to provide in this state
33 professional health care service to an individual during that
34 individual's medical care, treatment or confinement.

35 Sec. 40. Section 147.74, Code 1987, is amended by adding

1 the following new unnumbered paragraph:

2 NEW UNNUMBERED PARAGRAPH. A pharmacist who possesses a
3 doctoral degree recognized by the American council of
4 pharmaceutical education from a college of pharmacy approved
5 by the board of pharmacy examiners or a doctor of philosophy
6 degree in an area related to pharmacy may use the prefix
7 "Doctor" or "Dr." but shall add after the person's name the
8 word "Pharmacist" or "Pharm. D.".

9 Sec. 41. Section 152.1, subsection 1, paragraph a, Code
10 1987, is amended to read as follows:

11 a. The practice of medicine and surgery, as defined in
12 chapter 148, the osteopathic practice, as defined in chapter
13 150, the practice of osteopathic medicine and surgery, as
14 defined in chapter 150A, or the practice of pharmacy as
15 defined in chapter ~~155~~ 155A, except practices which are
16 recognized by the medical and nursing professions and approved
17 by the board as proper to be performed by a registered nurse.

18 Sec. 42. Section 166.3, Code 1987, is amended to read as
19 follows:

20 166.3 PERMIT TO MANUFACTURE OR SELL.

21 Every person, before engaging as a manufacturer of, or
22 dealer in, biological products shall obtain from the
23 department a permit for that purpose and shall be required to
24 have a separate permit for each place of business. ~~No~~ A
25 pharmacy licensed under chapter ~~155~~ 155A shall not be required
26 to obtain a dealer's permit to deal in biological products.

27 Sec. 43. Section 203A.19, unnumbered paragraph 1, Code
28 1987, is amended to read as follows:

29 Any prescription drug, as defined in ~~section-155-3,~~
30 ~~subsection-10~~ chapter 155A, is misbranded unless:

31 Sec. 44. Section 204.308, subsection 3, Code 1987, is
32 amended to read as follows:

33 3. Except when dispensed directly by a practitioner, other
34 than a pharmacy, to an ultimate user, a controlled substance
35 included in schedule III or IV, which is a prescription drug

1 as determined under ~~section-155-37-subsections-9-and-10~~
2 chapter 155A, shall not be dispensed without a written or oral
3 prescription of a practitioner. The prescription may not be
4 filled or refilled more than six months after the date thereof
5 or be refilled more than five times, unless renewed by the
6 practitioner.

7 Sec. 45. Section 258A.5, subsection 2, paragraph c, Code
8 1987, is amended to read as follows:

9 c. Shall state whether the procedures are an alternative
10 to or an addition to the procedures stated in sections 114.22,
11 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to
12 148.9, 153.23 to 153.30, 153.33, and 154A.23~~7-and-155-14-to~~
13 ~~155-16~~.

14 Sec. 46. Section 321J.2, subsection 6, Code 1987, is
15 amended to read as follows:

16 6. This section does not apply to a person operating a
17 motor vehicle while under the influence of a drug if the
18 substance was prescribed for the person and was taken under
19 the prescription and in accordance with the directions of a
20 medical practitioner as defined in ~~section-155-37-subsection~~
21 ~~11~~ chapter 155A, if there is no evidence of the consumption of
22 alcohol and the medical practitioner had not directed the
23 person to refrain from operating a motor vehicle.

24 Sec. 47. Section 422.45, subsection 13, Code 1987, is
25 amended to read as follows:

26 13. The gross receipts from the sale of prescription
27 drugs, as defined in ~~section-155-37-subsection-10~~ chapter
28 155A, if dispensed for human use or consumption by a
29 registered pharmacist licensed under chapter ~~155~~ 155A, a
30 physician and surgeon licensed under chapter 148, an osteopath
31 licensed under chapter 150, an osteopathic physician and
32 surgeon licensed under chapter 150A, a dentist licensed under
33 chapter 153, or a podiatrist licensed under chapter 149.

34 Sec. 48. Section 514.5, unnumbered paragraph 3, is amended
35 to read as follows:

1 Any pharmaceutical or optometric service corporation
2 organized under the provisions of said chapter may enter into
3 contracts for the rendering of pharmaceutical or optometric
4 service to any of its subscribers. Membership in any
5 pharmaceutical service corporation shall be open to all
6 pharmacies licensed under chapter ~~155~~ 155A.

7 Sec. 49. Chapter 155, Code 1987, is repealed.

8 EXPLANATION

9 This bill repeals chapter 155, relating to the regulation
10 of pharmacists and prescription drugs, and enacts a new
11 chapter 155A in its place.

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HOUSE FILE 594
BY COMMITTEE ON STATE
GOVERNMENT
Substituted for S.F. 446 4/11/87

(As Amended and Passed by the House April 1, 1987)

Passed House, Date 4/27/87 (p. 1468) Passed Senate, Date 4-20-87 (p. 1389)
Vote: Ayes 92 Nays 0 Vote: Ayes 49 Nays 0
Approved June 5, 1987

A BILL FOR

1 An Act relating to the regulation of pharmacists and pharmacies
2 and to administration, dispensing, and distribution of certain
3 drugs, and providing penalties.

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

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House Amendments _____

1 Section 1. NEW SECTION. 155A.1 SHORT TITLE.

2 This chapter may be cited as the "Iowa Pharmacy Practice
3 Act."

4 Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION --
5 PURPOSE.

6 1. It is the purpose of this chapter to promote, preserve,
7 and protect the public health, safety, and welfare through the
8 effective regulation of the practice of pharmacy and the
9 licensing of pharmacies, pharmacists, and others engaged in
10 the sale, delivery, or distribution of prescription drugs and
11 devices or other classes of drugs or devices which may be
12 authorized.

13 2. Practitioners licensed under a separate chapter of the
14 Code are not regulated by this chapter except when engaged in
15 the operation of a pharmacy for the retailing of prescription
16 drugs.

17 Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

18 As used in this chapter, unless the context otherwise
19 requires:

20 1. "Administer" means the direct application of a
21 prescription drug, whether by injection, inhalation,
22 ingestion, or any other means, to the body of a patient or
23 research subject by one of the following:

24 a. A practitioner or the practitioner's authorized agent.

25 b. The patient or research subject at the direction of a
26 practitioner.

27 2. "Authorized agent" means an individual designated by a
28 practitioner who is under the supervision of the practitioner
29 and for whom the practitioner assumes legal responsibility.

30 3. "Board" means the board of pharmacy examiners.

31 4. "Brand name" or "trade name" means the registered
32 trademark name given to a drug product or ingredient by its
33 manufacturer, labeler, or distributor.

34 5. "College of pharmacy" means a school, university, or
35 college of pharmacy that satisfies the accreditation standards

1 of the American council on pharmaceutical education as adopted
2 by the board, or that has degree requirements which meet the
3 standards of accreditation adopted by the board.

4 6. "Controlled substance" means a drug substance,
5 immediate precursor, or other substance listed in division II
6 of chapter 204.

7 7. "Controlled substances Act" means chapter 204.

8 8. "Deliver" or "delivery" means the actual, constructive,
9 or attempted transfer of a prescription drug or device or
10 controlled substance from one person to another, whether or
11 not for a consideration.

12 9. "Demonstrated bioavailability" means the rate and
13 extent of absorption of a drug or drug ingredient from a
14 specified dosage form, as reflected by the time-concentration
15 curve of the drug or drug ingredient in the systemic
16 circulation.

17 10. "Device" means an instrument, apparatus, implement,
18 machine, contrivance, implant, in vitro reagent, or other
19 similar or related article, including any component part or
20 accessory, that is required under federal or state law to be
21 ordered or prescribed by a practitioner.

22 11. "Dispense" means to deliver a prescription drug or
23 controlled substance to an ultimate user or research subject
24 by or pursuant to the lawful prescription drug order or
25 medication order of a practitioner, including the prescribing,
26 administering, packaging, labeling, or compounding necessary
27 to prepare the substance for that delivery.

28 12. "Distribute" means the delivery of a prescription drug
29 or device.

30 13. "Drug" means one or more of the following:

31 a. A substance recognized as a drug in the current
32 official United States Pharmacopoeia and National Formulary,
33 official Homeopathic Pharmacopoeia, or other drug compendium
34 or any supplement to any of them.

35 b. A substance intended for use in the diagnosis, cure,

1 mitigation, treatment, or prevention of disease in humans or
2 other animals.

3 c. A substance, other than food, intended to affect the
4 structure or any function of the body of humans or other
5 animals.

6 d. A substance intended for use as a component of any
7 substance specified in paragraph "a", "b", or "c".

8 e. A controlled substance.

9 14. "Drug product selection" means the act of selecting
10 the source of supply of a drug product.

11 15. "Generic name" means the official title of a drug or
12 drug ingredient published in the current official United
13 States Pharmacopoeia and National Formulary, official
14 Homeopathic Pharmacopoeia, or other drug compendium published
15 by the United States pharmacopoeial convention or any
16 supplement to any of them.

17 16. "Internship" means a practical experience program
18 approved by the board for persons training to become
19 pharmacists.

20 17. "Label" means written, printed, or graphic matter on
21 the immediate container of a drug or device.

22 18. "Labeling" means the process of preparing and affixing
23 a label including information required by federal or state law
24 or regulation to a drug or device container. The term does
25 not include the labeling by a manufacturer, packer, or
26 distributor of a nonprescription drug or commercially packaged
27 prescription drug or device or unit dose packaging.

28 19. "Medication order" means a written order from a
29 practitioner or an oral order from a practitioner or the
30 practitioner's authorized agent for administration of a drug
31 or device.

32 20. "Pharmacist" means a person licensed by the board to
33 practice pharmacy.

34 21. "Pharmacist in charge" means the pharmacist designated
35 on a pharmacy license as the pharmacist who has the authority

1 and responsibility for the pharmacy's compliance with laws and
2 rules pertaining to the practice of pharmacy.

3 22. "Pharmacist-intern" means an undergraduate student
4 enrolled in the professional sequence of a college of pharmacy
5 approved by the board, or a graduate of a college of pharmacy,
6 who is participating in a board-approved internship under the
7 supervision of a preceptor.

8 23. "Pharmacy" means a location where prescription drugs
9 are compounded, dispensed, or sold by a pharmacist and where
10 prescription drug orders are received or processed in
11 accordance with the pharmacy laws.

12 24. "Pharmacy license" means a license issued to a
13 pharmacy or other place where prescription drugs or devices
14 are dispensed to the general public pursuant to a prescription
15 drug order.

16 25. "Practice of pharmacy" is a dynamic patient-oriented
17 health service profession that applies a scientific body of
18 knowledge to improve and promote patient health by means of
19 appropriate drug use and related drug therapy.

20 26. "Practitioner" means a physician, dentist, podiatrist,
21 veterinarian, or other person licensed or registered to
22 distribute or dispense a prescription drug or device in the
23 course of professional practice in this state or a person
24 licensed by another state in a health field in which, under
25 Iowa law, licensees in this state may legally prescribe drugs.

26 27. "Preceptor" means a pharmacist in good standing
27 licensed in this state to practice pharmacy and approved by
28 the board to supervise and be responsible for the activities
29 and functions of a pharmacist-intern in the internship
30 program.

31 28. "Prescription drug" means any of the following:

32 a. A substance for which federal or state law requires a
33 prescription before it may be legally dispensed to the public.

34 b. A drug or device that under federal law is required,
35 prior to being dispensed or delivered, to be labeled with

1 either of the following statements:

2 (1) Caution: Federal law prohibits dispensing without a
3 prescription.

4 (2) Caution: Federal law restricts this drug to use by or
5 on the order of a licensed veterinarian.

6 c. A drug or device that is required by any applicable
7 federal or state law or regulation to be dispensed on
8 prescription only, or is restricted to use by a practitioner
9 only.

10 29. "Prescription drug order" means a written order from a
11 practitioner or an oral order from a practitioner or the
12 practitioner's authorized agent who communicates the
13 practitioner's instructions, to a pharmacist for a
14 prescription drug or device to be dispensed.

15 30. "Proprietary medicine" means a nonnarcotic drug or
16 device that may be sold without a prescription and that is
17 labeled and packaged in compliance with applicable state or
18 federal law.

19 31. "Ultimate user" means a person who has lawfully
20 obtained and possesses a prescription drug or device for the
21 person's own use or for the use of a member of the person's
22 household or for administering to an animal owned by the
23 person or by a member of the person's household.

24 32. "Unit dose packaging" means the packaging of
25 individual doses of a drug in containers which preserve the
26 identity and integrity of the drug from the point of packaging
27 to administration and which are properly labeled pursuant to
28 rules of the board.

29 33. "Wholesaler" means a person operating or maintaining,
30 either within or outside this state, a manufacturing plant,
31 wholesale distribution center, wholesale business, or any
32 other business in which prescription drugs, medicinal
33 chemicals, medicines, or poisons are sold, manufactured,
34 compounded, dispensed, stocked, exposed, or offered for sale
35 at wholesale in this state. "Wholesaler" does not include

1 those wholesalers who sell only proprietary medicines.

2 34. "Wholesale salesperson" or "manufacturer's
3 representative" means an individual who takes purchase orders
4 on behalf of a wholesaler for prescription drugs, medicinal
5 chemicals, medicines, or poisons. "Wholesale salesperson" or
6 "manufacturer's representative" does not include an individual
7 who sells only proprietary medicines.

8 Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST
9 UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION
10 DRUGS -- EXCEPTIONS.

11 1. A person shall not dispense prescription drugs unless
12 that person is a licensed pharmacist or is authorized by
13 section 147.107 to dispense or distribute prescription drugs.

14 2. Notwithstanding subsection 1, it is not unlawful for:

15 a. A manufacturer or wholesaler to distribute prescription
16 drugs as provided by state or federal law.

17 b. A practitioner, licensed by the appropriate state
18 board, to dispense prescription drugs to patients as incident
19 to the practice of the profession, except with respect to the
20 operation of a pharmacy for the retailing of prescription
21 drugs.

22 c. A practitioner, licensed by the appropriate state
23 board, to administer drugs to patients. This chapter does not
24 prevent a practitioner from delegating the administration of a
25 prescription drug to a nurse, intern, or other qualified
26 individual or, in the case of a veterinarian, to an orderly or
27 assistant, under the practitioner's direction and supervision.

28 d. A person to sell at retail a proprietary medicine, an
29 insecticide, a fungicide, or a chemical used in the arts, if
30 properly labeled.

31 e. A person to procure prescription drugs for lawful
32 research, teaching, or testing and not for resale.

33 f. A pharmacy to distribute a prescription drug to another
34 pharmacy or to a practitioner.

35 Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

1 Notwithstanding the existence or pursuit of any other
2 remedy the board may, in the manner provided by law, maintain
3 an action in the name of the state for injunction or other
4 process against any person to restrain or prevent the
5 establishment, conduct, management, or operation of a pharmacy
6 or wholesaler, without license, or to prevent the violation of
7 provisions of this chapter. Upon request of the board, the
8 attorney general shall institute the proper proceedings and
9 the county attorney, at the request of the attorney general,
10 shall appear and prosecute the action when brought in the
11 county attorney's county.

12 Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS -- PHARMACIST-
13 INTERN REGISTRATION.

14 1. A program of pharmacist internships is established.
15 Each internship is subject to approval by the board.

16 2. A person desiring to be a pharmacist-intern in this
17 state shall apply to the board for registration. The
18 application must be on a form prescribed by the board. A
19 pharmacist-intern must be registered during internship
20 training and thereafter pursuant to rules adopted by the
21 board.

22 3. The board shall establish standards for registration
23 and may deny, suspend, or revoke a pharmacist-intern
24 registration for failure to meet the standards or for any
25 violation of this chapter.

26 4. The board shall adopt rules in accordance with chapter
27 17A on matters pertaining to registration standards,
28 registration fees, conditions of registration, termination of
29 registration, and approval of preceptors.

30 Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

31 A person shall not engage in the practice of pharmacy in
32 this state without a license. The license shall be identified
33 as a pharmacist license.

34 Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST
35 LICENSE.

1 To qualify for a pharmacist license, an applicant shall
2 meet the following requirements:

3 1. Be a graduate of a school or college of pharmacy or of
4 a department of pharmacy of a university recognized and
5 approved by the board.

6 2. File proof, satisfactory to the board, of internship
7 for a period of time fixed by the board.

8 3. Pass an examination prescribed by the board.

9 Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES --
10 GRADUATES OF FOREIGN COLLEGES.

11 1. A college of pharmacy shall not be approved by the
12 board unless the college is accredited by the American council
13 on pharmaceutical education.

14 2. An applicant who is a graduate of a school or college
15 of pharmacy located outside the United States but who is
16 otherwise qualified to apply for a pharmacist license in this
17 state may be deemed to have satisfied the requirements of
18 section 155A.8, subsection 1, by verification to the board of
19 the applicant's academic record and graduation and by meeting
20 other requirements established by rule of the board. The
21 board may require the applicant to pass an examination or
22 examinations given or approved by the board to establish
23 proficiency in English and equivalency of education as a
24 prerequisite for taking the licensure examination required in
25 section 155A.8, subsection 3.

26 Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST
27 LICENSE.

28 A pharmacist shall publicly display the license to practice
29 pharmacy and the license renewal certificate pursuant to rules
30 adopted by the board.

31 Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST
32 LICENSE.

33 The board shall specify by rule the procedures to be
34 followed and the fee to be paid for a renewal certificate, and
35 penalties for late renewal or failure to renew a pharmacist

1 license.

2 Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE --

3 GROUNDS FOR DISCIPLINE.

4 The board shall refuse to issue a pharmacist license for
5 failure to meet the requirements of section 155A.8. The board
6 may refuse to issue or renew a license or may impose a fine,
7 issue a reprimand, or revoke, restrict, cancel, or suspend a
8 license, and may place a licensee on probation, if the board
9 finds that the applicant or licensee has done any of the
10 following:

11 1. Violated any provision of this chapter or any rules of
12 the board adopted under this chapter.

13 2. Engaged in unethical conduct as that term is defined by
14 rules of the board.

15 3. Violated any of the provisions for licensee discipline
16 set forth in section 147.55.

17 4. Failed to keep and maintain records required by this
18 chapter or failed to keep and maintain complete and accurate
19 records of purchases and disposal of drugs listed in the
20 controlled substances Act.

21 5. Violated any provision of the controlled substances Act
22 or rules relating to that Act.

23 6. Aided or abetted an unlicensed individual to engage in
24 the practice of pharmacy.

25 7. Refused an entry into any pharmacy for any inspection
26 authorized by this chapter.

27 8. Violated the pharmacy or drug laws or rules of any
28 other state of the United States while under the other state's
29 jurisdiction.

30 9. Been convicted of an offense or subjected to a penalty
31 or fine for violation of chapter 147, 203, 203A, 204, or the
32 Federal Food, Drug and Cosmetic Act. A plea or verdict of
33 guilty, or a conviction following a plea of nolo contendere,
34 is deemed to be a conviction within the meaning of this
35 section.

1 10. Had a license to practice pharmacy issued by another
2 state canceled, revoked, or suspended for conduct
3 substantially equivalent to conduct described in subsections 1
4 through 9. A certified copy of the record of the state taking
5 action as set out above shall be conclusive evidence of the
6 action taken by such state.

7 Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

8 1. A person shall not establish, conduct, or maintain a
9 pharmacy in this state without a license. The license shall
10 be identified as a pharmacy license.

11 2. The board shall specify by rule the licensing
12 procedures to be followed, including specifications of forms
13 for use in applying for a pharmacy license and fees for filing
14 an application.

15 3. The board may issue a special or limited-use pharmacy
16 license based upon special conditions of use imposed pursuant
17 to rules adopted by the board for cases in which the board
18 determines that certain requirements may be waived.

19 4. To qualify for a pharmacy license, the applicant shall
20 submit to the board a license fee as determined by the board
21 and a completed application on a form prescribed by the board
22 that shall include the following information and be given
23 under oath:

24 a. Ownership.

25 b. Location.

26 c. The license number of each pharmacist employed by the
27 pharmacy at the time of application.

28 d. The trade or corporate name of the pharmacy.

29 e. The name of the pharmacist in charge, who has the
30 authority and responsibility for the pharmacy's compliance
31 with laws and rules pertaining to the practice of pharmacy.

32 5. A person who falsely makes the affidavit prescribed in
33 subsection 4 is subject to all penalties prescribed for making
34 a false affidavit.

35 6. A pharmacy license issued by the board under this

1 chapter shall be issued in the name of the pharmacist in
2 charge and is not transferable or assignable.

3 7. The board shall specify by rule minimum standards for
4 professional responsibility in the conduct of a pharmacy.

5 8. A separate license is required for each principal place
6 of practice.

7 9. The license of the pharmacy shall be displayed.

8 Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY
9 LICENSE.

10 The board shall specify by rule the procedures to be
11 followed and the fee to be paid for a renewal certificate, and
12 the penalties for late renewal or failure to renew a pharmacy
13 license.

14 Sec. 15. NEW SECTION. 155A.15 PHARMACIES -- LICENSE
15 REQUIRED -- DISCIPLINE, VIOLATIONS, AND PENALTIES.

16 1. A pharmacy subject to section 155A.13 shall not be
17 operated until a license or renewal certificate has been
18 issued to the pharmacy by the board.

19 2. The board shall refuse to issue a pharmacy license for
20 failure to meet the requirements of section 155A.13. The
21 board may refuse to issue or renew a license or may impose a
22 fine, issue a reprimand, or revoke, restrict, cancel, or
23 suspend a license, and may place a licensee on probation, if
24 the board finds that the applicant or licensee has done any of
25 the following:

26 a. Been convicted of a felony or a misdemeanor involving
27 moral turpitude, or if the applicant is an association, joint
28 stock company, partnership, or corporation, that a managing
29 officer has been convicted of a felony or a misdemeanor
30 involving moral turpitude, under the law of this state,
31 another state, or the United States.

32 b. Advertised any prescription drugs or devices in a
33 deceitful, misleading, or fraudulent manner.

34 c. Violated any provision of this chapter or any rule
35 adopted under this chapter or that any owner or employee of

1 the pharmacy has violated any provision of this chapter or any
2 rule adopted under this chapter.

3 d. Delivered without legal authorization prescription
4 drugs or devices to a person other than one of the following:

5 (1) A pharmacy licensed by the board.

6 (2) A practitioner.

7 (3) A person who procures prescription drugs or devices
8 for the purpose of lawful research, teaching, or testing, and
9 not for resale.

10 (4) A manufacturer or wholesaler licensed by the board.

11 However, this chapter does not prohibit a pharmacy from
12 furnishing a prescription drug or device to a licensed health
13 care facility for storage in a secured emergency
14 pharmaceutical supplies container maintained within the
15 facility in accordance with regulations of the Iowa department
16 of public health.

17 e. Allowed an employee who is not a licensed pharmacist to
18 practice pharmacy.

19 f. Delivered mislabeled prescription or nonprescription
20 drugs.

21 g. Failed to engage in or ceased to engage in the business
22 described in the application for a license.

23 h. Failed to keep and maintain records as required by this
24 chapter, the controlled substances Act, or rules adopted under
25 the controlled substances Act.

26 i. Failed to establish effective controls against
27 diversion of prescription drugs into other than legitimate
28 medical, scientific, or industrial channels as provided by
29 this chapter and other Iowa or federal laws or rules.

30 Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

31 Unless otherwise provided, any disciplinary action taken by
32 the board under section 155A.12 or 155A.15 is governed by
33 chapter 17A and the rules of practice and procedure before the
34 board.

35 Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

1 A person shall not establish, conduct or maintain a
2 wholesale drug business as defined in this chapter without a
3 license. The license shall be identified as a wholesale drug
4 license. This section does not apply to a manufacturer's
5 representative acting in the usual course of business or
6 employment as a manufacturer's representative.

7 Sec. 18. NEW SECTION. 155A.18 PENALTIES.

8 The board shall impose penalties as allowed under section
9 258A.3. In addition, civil penalties not to exceed twenty-
10 five thousand dollars, may be imposed.

11 Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

12 1. A pharmacy shall report in writing to the board,
13 pursuant to its rules, the following:

14 a. Permanent closing.

15 b. Change of ownership.

16 c. Change of location.

17 d. Change of pharmacist in charge.

18 e. The sale or transfer of prescription drugs, including
19 controlled substances, on the permanent closing or change of
20 ownership of the pharmacy.

21 f. Out-of-state purchases of controlled substances.

22 g. Theft or significant loss of any controlled substance
23 on discovery of the theft or loss.

24 h. Disasters, accidents, and emergencies that may affect
25 the strength, purity, or labeling of drugs, medications,
26 devices, or other materials used in the diagnosis or the
27 treatment of injury, illness, and disease.

28 2. A pharmacist shall report in writing to the board
29 within ten days a change of address or place of employment.

30 Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND
31 TITLES -- IMPERSONATION.

32 1. A person shall not display in or on any store or place
33 of business the word or words: "apothecary", "drug", "drug
34 store", or "pharmacy", either in English or any other
35 language, any other word or combination of words of the same

1 or similar meaning, or any graphic representation that would
2 mislead the public unless it is a pharmacy or drug wholesaler
3 licensed under this chapter.

4 2. A person shall not do any of the following:

5 a. Impersonate before the board an applicant applying for
6 licensing under this chapter.

7 b. Impersonate an Iowa licensed pharmacist.

8 c. Use the title pharmacist, druggist, apothecary, or
9 words of similar intent unless the person is licensed to
10 practice pharmacy.

11 3. A pharmacist shall not utilize the title "Dr." or
12 "Doctor" if that pharmacist has not acquired the doctor of
13 pharmacy degree from an approved college of pharmacy or the
14 doctor of philosophy degree in an area related to pharmacy.

15 Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF
16 PRESCRIPTION DRUG -- PENALTY.

17 1. A person found in possession of a drug limited to
18 dispensation by prescription, unless the drug was so lawfully
19 dispensed, commits a serious misdemeanor.

20 2. Subsection 1 does not apply to a licensed pharmacy,
21 licensed wholesaler, physician, veterinarian, dentist,
22 podiatrist, therapeutically certified optometrist, a nurse
23 acting under the direction of a physician, or the board of
24 pharmacy examiners, its officers, agents, inspectors, and
25 representatives, nor to a common carrier, manufacturer's
26 representative, or messenger when transporting the drug in the
27 same unbroken package in which the drug was delivered to that
28 person for transportation.

29 Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.

30 A person who violates any of the provisions of this chapter
31 or any chapter pertaining to or affecting the practice of
32 pharmacy for which a specific penalty is not provided commits
33 a simple misdemeanor.

34 Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.

35 A person shall not:

- 1 1. Obtain or attempt to obtain a prescription drug or
- 2 procure or attempt to procure the administration of a
- 3 prescription drug by:
 - 4 a. Fraud, deceit, misrepresentation, or subterfuge.
 - 5 b. Forgery or alteration of a prescription or of any
 - 6 written order.
 - 7 c. Concealment of a material fact.
 - 8 d. Use of a false name or the giving of a false address.
- 9 2. Willfully make a false statement in any prescription,
- 10 report, or record required by this chapter.
- 11 3. For the purpose of obtaining a prescription drug,
- 12 falsely assume the title of or claim to be a manufacturer,
- 13 wholesaler, pharmacist, pharmacy owner, physician, dentist,
- 14 podiatrist, veterinarian, or other authorized person.
- 15 4. Make or utter any false or forged prescription or
- 16 written order.

17 5. Affix any false or forged label to a package or
18 receptacle containing prescription drugs.

19 Information communicated to a physician in an unlawful
20 effort to procure a prescription drug or to procure the
21 administration of a prescription drug shall not be deemed a
22 privileged communication.

23 Sec. 24. NEW SECTION. 155A.24 PENALTIES.

24 A person who violates a provision of section 155A.23 or who
25 sells or offers for sale, gives away, or administers to
26 another person any prescription drug commits a public offense
27 and shall be punished as follows:

28 If the prescription drug is a controlled substance, the
29 person shall be punished pursuant to section 204.401,
30 subsection 1, and section 204.411.

31 If the prescription drug is not a controlled substance, the
32 person, upon conviction of a first offense, is guilty of a
33 serious misdemeanor. For a second offense, or if in case of a
34 first offense the offender previously has been convicted of
35 any violation of the laws of the United States or of any

1 state, territory, or district thereof relating to prescription
2 drugs, the offender is guilty of an aggravated misdemeanor.
3 For a third or subsequent offense or if in the case of a
4 second offense the offender previously has been convicted two
5 or more times in the aggregate of any violation of the laws of
6 the United States or of any state, territory, or district
7 thereof relating to prescription drugs, the offender is guilty
8 of a class "D" felony.

9 A person who violates any provision of this chapter by
10 selling, giving away, or administering any prescription drug
11 to a minor is guilty of a class "C" felony.

12 This section does not prevent a licensed practitioner of
13 medicine, dentistry, podiatry, nursing, veterinary medicine,
14 or pharmacy from acts necessary in the ethical and legal
15 performance of the practitioner's profession.

16 Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

17 In any complaint, information, or indictment, and in any
18 action or proceeding brought for the enforcement of any
19 provisions of this chapter, it shall not be necessary to
20 negate any exception, excuse, proviso, or exemption contained
21 in this chapter, and the burden of proof of any such
22 exception, excuse, proviso, or exemption shall be upon the
23 defendant.

24 Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT -- AGENTS AS
25 PEACE OFFICERS.

26 The board of pharmacy examiners, its officers, agents,
27 inspectors, and representatives, and all peace officers within
28 the state, and all county attorneys shall enforce all
29 provisions of this chapter, except those specifically
30 delegated, and shall cooperate with all agencies charged with
31 the enforcement of the laws of the United States, of this
32 state, and of all other states relating to prescription drugs.
33 Officers, agents, inspectors, and representatives of the board
34 of pharmacy examiners shall have the powers and status of
35 peace officers when enforcing the provisions of this chapter.

1 Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR
2 PRESCRIPTION.

3 Each prescription drug order issued or filled in this
4 state:

5 1. If written, shall contain:

6 a. The date of issue.

7 b. The name and address of the patient for whom, or the
8 owner of the animal for which, the drug is dispensed.

9 c. The name, strength, and quantity of the drug, medicine,
10 or device prescribed.

11 d. The directions for use of the drug, medicine, or device
12 prescribed.

13 e. The name, address, and signature of the practitioner
14 issuing the prescription.

15 f. The federal drug enforcement administration number, if
16 required under chapter 204.

17 2. If oral, the practitioner issuing the prescription
18 shall furnish the same information required for a written
19 prescription, except for the written signature and address of
20 the practitioner. Upon receipt of an oral prescription, the
21 pharmacist shall promptly reduce the oral prescription to a
22 written format by recording the information required in a
23 written prescription.

24 Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION
25 DRUGS.

26 The label of any drug or device sold and dispensed on the
27 prescription of a practitioner shall be in compliance with
28 rules adopted by the board.

29 Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.

30 1. Except as specified in subsection 2, a prescription for
31 any prescription drug or device which is not a controlled
32 substance shall not be filled or refilled more than one year
33 after the date on which the prescription was issued and a
34 prescription which is authorized to be refilled shall not be
35 refilled more than eleven times.

1 2. A pharmacist may exercise professional judgment by
2 refilling a prescription without prescriber authorization if
3 all of the following are true:

4 a. The pharmacist is unable to contact the prescriber
5 after reasonable effort.

6 b. Failure to refill the prescription might result in an
7 interruption of therapeutic regimen or create patient
8 suffering.

9 c. The pharmacist informs the patient or the patient's
10 representative at the time of dispensing, and the practitioner
11 at the earliest convenience that prescriber reauthorization is
12 required.

13 3. Prescriptions may be refilled once pursuant to
14 subsection 2 for a period of time reasonably necessary for the
15 pharmacist to secure prescriber authorization.

16 Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION
17 ORDERS.

18 Prescription drug orders issued by out-of-state
19 practitioners who would be authorized to prescribe if they
20 were practicing in Iowa may be filled by licensed pharmacists
21 operating in licensed Iowa pharmacies.

22 Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

23 A licensed pharmacy in this state shall maintain a
24 reference library pursuant to rules of the board.

25 Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT SELECTION --
26 RESTRICTIONS.

27 1. If an authorized prescriber prescribes, either in
28 writing or orally, a drug by its brand or trade name, the
29 pharmacist may exercise professional judgment in the economic
30 interest of the patient by selecting a drug product with the
31 same generic name and demonstrated bioavailability as the one
32 prescribed for dispensing and sale to the patient. If the
33 cost of the prescription or any part of it will be paid by
34 expenditure of public funds authorized under chapter 249A, the
35 pharmacist shall exercise professional judgment by selecting a

1 drug product with the same generic name and demonstrated
2 bioavailability as the one prescribed for dispensing and sale.
3 If the pharmacist exercises drug product selection, the
4 pharmacist shall inform the patient of the savings which the
5 patient will obtain as a result of the drug product selection
6 and pass on to the patient no less than fifty percent of the
7 difference in actual acquisition costs between the drug
8 prescribed and the drug substituted.

9 2. The pharmacist shall not exercise the drug product
10 selection described in this section if either of the following
11 is true:

12 a. The prescriber specifically indicates that no drug
13 product selection shall be made.

14 b. The person presenting the prescription indicates that
15 only the specific drug product prescribed should be dispensed.
16 However, this paragraph does not apply if the cost of the
17 prescription or any part of it will be paid by expenditure of
18 public funds authorized under chapter 249A.

19 3. If selection of a generically equivalent product is
20 made under this section, the pharmacist making the selection
21 shall note that fact and the name of the manufacturer of the
22 selected drug on the prescription presented by the patient or
23 the patient's adult representative.

24 Sec. 33. NEW SECTION. 155A.33 DELEGATION OF
25 NONJUDGMENTAL FUNCTIONS.

26 A pharmacist may delegate nonjudgmental dispensing
27 functions to assistants, but only if the pharmacist is
28 physically present to verify the accuracy and completeness of
29 the patient's prescription prior to delivery to the patient or
30 the patient's representative.

31 Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

32 A pharmacist may transfer a valid prescription order to
33 another pharmacist pursuant to rules adopted by the board.

34 Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION
35 RECORDS.

1 A licensed pharmacy shall maintain patient medication
2 records in accordance with rules adopted by the board.

3 Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY
4 SYSTEMS.

5 Drugs dispensed utilizing unit dose packaging shall comply
6 with labeling and packaging requirements in accordance with
7 rules adopted by the board.

8 Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL
9 RESPONSIBILITY FOR BOARD EMPLOYEES.

10 1. The board shall adopt a code of professional
11 responsibility to regulate the conduct of board employees
12 responsible for inspections and surveys of pharmacies.

13 2. The code shall contain a procedure to be followed by
14 personnel of the board in all of the following:

15 a. On entering a pharmacy.

16 b. During inspection of the pharmacy.

17 c. During the exit conference.

18 3. The code shall contain standards of conduct that
19 personnel of the board are to follow in dealing with the staff
20 and management of the pharmacy and the general public.

21 4. The board shall establish a procedure for receiving and
22 investigating complaints of violations of this code. The
23 board shall investigate all complaints of violations. The
24 results of an investigation shall be forwarded to the
25 complainant.

26 5. The board may adopt rules establishing sanctions for
27 violations of this code of professional responsibility.

28 Sec. 38. Section 106.12, subsection 2, Code 1987, is
29 amended to read as follows:

30 2. No A person shall not operate any vessel, or manipulate
31 any water skis, surfboard or similar device while under the
32 influence of an alcoholic beverage, marijuana, a narcotic,
33 hypnotic or other drug, or any combination of these
34 substances. However, this subsection ~~shall~~ does not apply to
35 a person operating any vessel or manipulating any water skis,

1 surfboard or similar device while under the influence of
2 marijuana, or a narcotic, hypnotic or other drug if the
3 substances were prescribed for the person and have been taken
4 under the prescription and in accordance with the directions
5 of a medical practitioner as defined in ~~section-155-37~~
6 ~~subsection-11~~ chapter 155A, provided there is no evidence of
7 the consumption of alcohol and further provided the medical
8 practitioner has not directed the person to refrain from
9 operating a motor vehicle, any vessel or from manipulating any
10 water skis, surfboard or similar device.

11 Sec. 39. Section 135.61, subsection 10, Code 1987, is
12 amended to read as follows:

13 10. "Health care provider" means a person licensed or
14 certified under chapter 147, 148, 148A, 148C, 149, 150, 150A,
15 151, 152, 153, 154, 154B, or ~~155~~ 155A to provide in this state
16 professional health care service to an individual during that
17 individual's medical care, treatment or confinement.

18 Sec. 40. Section 147.74, Code 1987, is amended by adding
19 the following new unnumbered paragraph:

20 NEW UNNUMBERED PARAGRAPH. A pharmacist who possesses a
21 doctoral degree recognized by the American council of
22 pharmaceutical education from a college of pharmacy approved
23 by the board of pharmacy examiners or a doctor of philosophy
24 degree in an area related to pharmacy may use the prefix
25 "Doctor" or "Dr." but shall add after the person's name the
26 word "Pharmacist" or "Pharm. D.".

27 Sec. 41. Section 152.1, subsection 1, paragraph a, Code
28 1987, is amended to read as follows:

29 a. The practice of medicine and surgery, as defined in
30 chapter 148, the osteopathic practice, as defined in chapter
31 150, the practice of osteopathic medicine and surgery, as
32 defined in chapter 150A, or the practice of pharmacy as
33 defined in chapter ~~155~~ 155A, except practices which are
34 recognized by the medical and nursing professions and approved
35 by the board as proper to be performed by a registered nurse.

1 Sec. 42. Section 166.3, Code 1987, is amended to read as
2 follows:

3 166.3 PERMIT TO MANUFACTURE OR SELL.

4 Every person, before engaging as a manufacturer of, or
5 dealer in, biological products shall obtain from the
6 department a permit for that purpose and shall be required to
7 have a separate permit for each place of business. No A
8 pharmacy licensed under chapter ~~155~~ 155A shall not be required
9 to obtain a dealer's permit to deal in biological products.

10 Sec. 43. Section 203A.19, unnumbered paragraph 1, Code
11 1987, is amended to read as follows:

12 Any prescription drug, as defined in ~~section-155-37~~
13 ~~subsection-10~~ chapter 155A, is misbranded unless:

14 Sec. 44. Section 204.308, subsection 3, Code 1987, is
15 amended to read as follows:

16 3. Except when dispensed directly by a practitioner, other
17 than a pharmacy, to an ultimate user, a controlled substance
18 included in schedule III or IV, which is a prescription drug
19 as determined under ~~section-155-37-subsections-9-and-10~~
20 chapter 155A, shall not be dispensed without a written or oral
21 prescription of a practitioner. The prescription may not be
22 filled or refilled more than six months after the date thereof
23 or be refilled more than five times, unless renewed by the
24 practitioner.

25 Sec. 45. Section 258A.5, subsection 2, paragraph c, Code
26 1987, is amended to read as follows:

27 c. Shall state whether the procedures are an alternative
28 to or an addition to the procedures stated in sections 114.22,
29 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to
30 148.9, 153.23 to 153.30, 153.33, and 154A.23, ~~and-155-14-to~~
31 ~~155-16~~.

32 Sec. 46. Section 321J.2, subsection 6, Code 1987, is
33 amended to read as follows:

34 6. This section does not apply to a person operating a
35 motor vehicle while under the influence of a drug if the

1 substance was prescribed for the person and was taken under
2 the prescription and in accordance with the directions of a
3 medical practitioner as defined in ~~section 155.37-subsection~~
4 ~~11~~ chapter 155A, if there is no evidence of the consumption of
5 alcohol and the medical practitioner had not directed the
6 person to refrain from operating a motor vehicle.

7 Sec. 47. Section 422.45, subsection 13, Code 1987, is
8 amended to read as follows:

9 13. The gross receipts from the sale of prescription
10 drugs, as defined in ~~section 155.37-subsection 10~~ chapter
11 155A, if dispensed for human use or consumption by a
12 registered pharmacist licensed under chapter ~~155~~ 155A, a
13 physician and surgeon licensed under chapter 148, an osteopath
14 licensed under chapter 150, an osteopathic physician and
15 surgeon licensed under chapter 150A, a dentist licensed under
16 chapter 153, or a podiatrist licensed under chapter 149.

17 Sec. 48. Section 514.5, unnumbered paragraph 3, is amended
18 to read as follows:

19 Any pharmaceutical or optometric service corporation
20 organized under the provisions of said chapter may enter into
21 contracts for the rendering of pharmaceutical or optometric
22 service to any of its subscribers. Membership in any
23 pharmaceutical service corporation shall be open to all
24 pharmacies licensed under chapter ~~155~~ 155A.

25 Sec. 49. Chapter 155, Code 1987, is repealed.

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1 Amend House File 594 as follows:

2 1. Page 18, line 30, by striking the words "this
3 section" and inserting the following: "subsection 1".

4 2. Page 18, by inserting after line 35 the
5 following:

6 "3. If the cost of the prescription or any part of
7 it will be paid by expenditure of public funds
8 authorized under chapter 249A, the pharmacist shall
9 exercise professional judgment by selecting a drug
10 product with the same generic name and demonstrated
11 bioavailability as the one prescribed for dispensing
12 and sale unless the prescriber specifically indicates
13 that no drug product selection shall be made."

14 3. By renumbering as necessary.

H-3343 FILED MARCH 24, 1987

BY BEATTY of Warren

Adopted 4/1 (p. 1026)

HOUSE FILE 594

H-3475

1 Amend House File 594 as follows:

2 1. Page 18, by striking line 24 and inserting the
3 following: "cost of the prescription or any part of
4 it will be paid by expenditure of public funds
5 authorized under chapter 249A, the pharmacist shall
6 exercise professional judgment by selecting a drug
7 product with the same generic name and demonstrated
8 bioavailability as the one prescribed for dispensing
9 and sale. If the pharmacist exercises drug product
10 selection, the pharmacist shall inform the patient
11 of".

12 2. Page 18, line 35, by inserting after the word
13 "dispensed." the following: "However, this paragraph
14 does not apply if the cost of the prescription or any
15 part of it will be paid by expenditure of public funds
16 authorized under chapter 249A."

H-3475 FILED MARCH 30, 1987 BY BEATTY of Warren

Adopted 4/1 (p. 1026)

HOUSE FILE 594

H-3505

1 Amend House File 594 as follows:

2 1. Page 6, by inserting after line 1 the
3 following:

4 "34. "Wholesale salesperson" or "manufacturer's
5 representative" means an individual who takes purchase
6 orders on behalf of a wholesaler for prescription
7 drugs, medicinal chemicals, medicines, or poisons.
8 "Wholesale salesperson" or "manufacturer's
9 representative" does not include an individual who
10 sells only proprietary medicines."

11 2. Page 12, line 33, by inserting after the word
12 "license." the following: "This section does not
13 apply to a manufacturer's representative acting in the
14 usual course of business or employment as a
15 manufacturer's representative."

16 3. Page 14, line 17, by inserting after the word
17 "carrier" the following: ", manufacturer's
18 representative,".

H-3505 FILED MARCH 31, 1987

BY BEATTY of Warren

HARBOR of Mills

Adopted 4/1/87 (p. 1026)

HOUSE FILE 594

S-3533

- 1 Amend House File 594 as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. Page 17, line 32, by striking the words "one
- 4 year" and inserting the following: "eighteen months".

S-3533

Filed April 13, 1987

Adopted 4/20/87 (p. 1389)

BY FORREST SCHWENGELS
RICHARD F. DRAKE

HOUSE FILE 594

S-3532

1 Amend House File 594 as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 10, line 10, by inserting after the word
4 "license." the following: "A pharmacy license issued
5 pursuant to subsection 4 may be further identified as
6 a hospital pharmacy license."

7 2. Page 10, by inserting after line 18 the
8 following:

9 "4. The board shall adopt rules for the issuance
10 of a hospital pharmacy license to a hospital which
11 provides pharmacy services for its own use. The rules
12 shall:

13 a. Recognize the special needs and circumstances
14 of hospital pharmacies.

15 b. Give due consideration to the scope of pharmacy
16 services that the hospital's medical staff and
17 governing board elect to provide for the hospital's
18 own use.

19 c. Consider the size, location, personnel, and
20 financial needs of the hospital.

21 d. Give recognition to the standards of the joint
22 commission on accreditation of hospitals and the
23 American osteopathic association and to the conditions
24 of participation under medicare.

25 To the maximum extent possible, the board shall
26 coordinate the rules with the standards and conditions
27 described in paragraph "d" and shall coordinate its
28 inspections of hospital pharmacies with the medicare
29 surveys of the department of inspections and appeals
30 and with the board's inspections with respect to
31 controlled substances conducted under contract with
32 the federal government.

33 A hospital which provides pharmacy services by
34 contracting with a licensed pharmacy is not required
35 to obtain a hospital pharmacy license or a general
36 pharmacy license.

37 5. A hospital which elects to operate a pharmacy
38 for other than its own use is subject to the
39 requirements for a general pharmacy license. If the
40 hospital's pharmacy services for other than its own
41 use are special or limited, the board may issue a
42 special or limited-use pharmacy license pursuant to
43 subsection 3."

44 3. Page 10, line 33, by striking the figure "4"
45 and inserting the following: "6".

46 4. Page 23, by inserting after line 25 the
47 following:

48 "Sec. _____. The provisions of this Act requiring
49 that hospital pharmacies be licensed shall not take
50 effect until January 1, 1988."

pg. 2

1 5. By renumbering as necessary.

S-3532

Filed April 13, 1987

Adopted 4/20/87 (p. 1389)

BY FORREST V. SCHWENGELS

SENATE AMENDMENT TO HOUSE FILE 594

H-3895

1 Amend House File 594 as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 10, line 10, by inserting after the word
4 "license." the following: "A pharmacy license issued
5 pursuant to subsection 4 may be further identified as
6 a hospital pharmacy license."

7 2. Page 10, by inserting after line 18 the
8 following:

9 "4. The board shall adopt rules for the issuance
10 of a hospital pharmacy license to a hospital which
11 provides pharmacy services for its own use. The rules
12 shall:

13 a. Recognize the special needs and circumstances
14 of hospital pharmacies.

15 b. Give due consideration to the scope of pharmacy
16 services that the hospital's medical staff and
17 governing board elect to provide for the hospital's
18 own use.

19 c. Consider the size, location, personnel, and
20 financial needs of the hospital.

21 d. Give recognition to the standards of the joint
22 commission on accreditation of hospitals and the
23 American osteopathic association and to the conditions
24 of participation under medicare.

25 To the maximum extent possible, the board shall
26 coordinate the rules with the standards and conditions
27 described in paragraph "d" and shall coordinate its
28 inspections of hospital pharmacies with the medicare
29 surveys of the department of inspections and appeals
30 and with the board's inspections with respect to
31 controlled substances conducted under contract with
32 the federal government.

33 A hospital which provides pharmacy services by
34 contracting with a licensed pharmacy is not required
35 to obtain a hospital pharmacy license or a general
36 pharmacy license.

37 5. A hospital which elects to operate a pharmacy
38 for other than its own use is subject to the
39 requirements for a general pharmacy license. If the
40 hospital's pharmacy services for other than its own
41 use are special or limited, the board may issue a
42 special or limited-use pharmacy license pursuant to
43 subsection 3."

44 3. Page 10, line 33, by striking the figure "4"
45 and inserting the following: "6".

46 4. Page 17, line 32, by striking the words "one
47 year" and inserting the following: "eighteen months".

48 5. Page 23, by inserting after line 25 the
49 following:

50 "Sec. ____ . The provisions of this Act requiring

Page Two

1 that hospital pharmacies be licensed shall not take
2 effect until January 1, 1988."

3 6. By renumbering, relettering, or redesignating
4 and correcting internal references as necessary.

H-3895 FILED APRIL 22, 1987 RECEIVED FROM THE SENATE

House concurred 4/27/87 (p. 1668)

APR 14 1987

SENATE/HOUSE FILE _____

BY (PREFILED BOARD OF
PHARMACY EXAMINERS BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the regulation of pharmacists and pharmacies
2 and to administration, dispensing, and distribution of certain
3 drugs, and providing penalties.

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

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SUB COMMITTEE ASSIGNMENTS

CHAIR: *Beatty*

COMMITTEE: *State Government*

2/24/87

1 Section 1. NEW SECTION. 155A.1 SHORT TITLE.

2 This chapter may be cited as the "Iowa Pharmacy Practice
3 Act."

4 Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION --
5 PURPOSE.

6 1. The practice of pharmacy in this state is declared a
7 professional practice affecting the public health, safety, and
8 welfare and is subject to regulation and control in the public
9 interest. It is further declared to be a matter of public
10 interest and concern that the practice of pharmacy, as defined
11 in this chapter, merit and receive the confidence of the
12 public and that only qualified persons be permitted to engage
13 in the practice of pharmacy in this state. This chapter shall
14 be liberally construed to carry out these objects and
15 purposes.

16 2. It is the purpose of this chapter to promote, preserve,
17 and protect the public health, safety, and welfare through the
18 effective regulation of the practice of pharmacy and the
19 licensing of pharmacies, pharmacists, and others engaged in
20 the sale, delivery, or distribution of prescription drugs and
21 devices or other classes of drugs or devices which may be
22 authorized.

23 Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

24 As used in this chapter, unless the context otherwise
25 requires:

26 1. "Administer" means the direct application of a
27 prescription drug, whether by injection, inhalation,
28 ingestion, or any other means, to the body of a patient or
29 research subject by one of the following:

30 a. A practitioner or the practitioner's authorized agent.

31 b. The patient or research subject at the direction of a
32 practitioner.

33 2. "Authorized agent" means an individual designated by a
34 practitioner who is under the supervision of the practitioner
35 and for whom the practitioner assumes legal responsibility.

- 1 3. "Board" means the board of pharmacy examiners.
- 2 4. "Brand name" or "trade name" means the registered
3 trademark name given to a drug product or ingredient by its
4 manufacturer, labeler, or distributor.
- 5 5. "College of pharmacy" means a school, university, or
6 college of pharmacy that satisfies the accreditation standards
7 of the American council on pharmaceutical education as adopted
8 by the board, or that has degree requirements which meet the
9 standards of accreditation adopted by the board.
- 10 6. "Controlled substance" means a drug substance,
11 immediate precursor, or other substance listed in division II
12 of chapter 204.
- 13 7. "Controlled substances Act" means chapter 204.
- 14 8. "Deliver" or "delivery" means the actual, constructive,
15 or attempted transfer of a prescription drug or device or
16 controlled substance from one person to another, whether or
17 not for a consideration.
- 18 9. "Demonstrated bioavailability" means the rate and
19 extent of absorption of a drug or drug ingredient from a
20 specified dosage form, as reflected by the time-concentration
21 curve of the drug or drug ingredient in the systemic
22 circulation.
- 23 10. "Device" means an instrument, apparatus, implement,
24 machine, contrivance, implant, in vitro reagent, or other
25 similar or related article, including any component part or
26 accessory, that is required under federal or state law to be
27 ordered or prescribed by a practitioner.
- 28 11. "Dispense" means to deliver a prescription drug or
29 controlled substance to an ultimate user or research subject
30 by or pursuant to the lawful prescription drug order or
31 medication order of a practitioner, including the prescribing,
32 administering, packaging, labeling, or compounding necessary
33 to prepare the substance for that delivery.
- 34 12. "Distribute" means the delivery of a prescription drug
35 or device.

- 1 13. "Drug" means one or more of the following:
2 a. A substance recognized as a drug in the current
3 official United States Pharmacopoeia and National Formulary,
4 official Homeopathic Pharmacopoeia, or other drug compendium
5 or any supplement to any of them.
6 b. A substance intended for use in the diagnosis, cure,
7 mitigation, treatment, or prevention of disease in humans or
8 other animals.
9 c. A substance, other than food, intended to affect the
10 structure or any function of the body of humans or other
11 animals.
12 d. A substance intended for use as a component of any
13 substance specified in paragraph "a", "b", or "c".
14 e. A controlled substance.
- 15 14. "Drug product selection" means the act of selecting
16 the source of supply of a drug product.
- 17 15. "Generic name" means the official title of a drug or
18 drug ingredient published in the current official United
19 States Pharmacopoeia and National Formulary, official
20 Homeopathic Pharmacopoeia, or other drug compendium published
21 by the United States pharmacopoeial convention or any
22 supplement to any of them.
- 23 16. "Internship" means a practical experience program
24 approved by the board for persons training to become
25 pharmacists.
- 26 17. "Label" means written, printed, or graphic matter on
27 the immediate container of a drug or device.
- 28 18. "Labeling" means the process of preparing and affixing
29 a label including information required by federal or state law
30 or regulation to a drug or device container. The term does
31 not include the labeling by a manufacturer, packer, or
32 distributor of a nonprescription drug or commercially packaged
33 prescription drug or device or unit dose packaging.
- 34 19. "Medication order" means a written order from a
35 practitioner or an oral order from a practitioner or the

1 practitioner's authorized agent for administration of a drug
2 or device.

3 20. "Pharmacist" means a person licensed by the board to
4 practice pharmacy.

5 21. "Pharmacist in charge" means the pharmacist designated
6 on a pharmacy license as the pharmacist who has the authority
7 and responsibility for the pharmacy's compliance with laws and
8 rules pertaining to the practice of pharmacy.

9 22. "Pharmacist-intern" means an undergraduate student
10 enrolled in the professional sequence of a college of pharmacy
11 approved by the board, or a graduate of a college of pharmacy,
12 who is participating in a board-approved internship under the
13 supervision of a preceptor.

14 23. "Pharmacy" means a location where prescription drugs
15 are compounded, dispensed, or sold by a pharmacist and where
16 prescription drug orders are received or processed in
17 accordance with the pharmacy laws.

18 24. "Pharmacy license" means a license issued to a
19 pharmacy or other place where prescription drugs or devices
20 are dispensed to the general public pursuant to a prescription
21 drug order.

22 25. "Practice of pharmacy" is a dynamic patient-oriented
23 health service that applies a scientific body of knowledge to
24 improve and promote patient health by means of appropriate
25 drug use and related drug therapy.

26 26. "Practitioner" means a physician, dentist, podiatrist,
27 veterinarian, or other person licensed or registered to
28 distribute or dispense a prescription drug or device in the
29 course of professional practice in this state or a person
30 licensed by another state in a health field in which, under
31 Iowa law, licensees in this state may legally prescribe drugs.

32 27. "Preceptor" means a pharmacist in good standing
33 licensed in this state to practice pharmacy and approved by
34 the board to supervise and be responsible for the activities
35 and functions of a pharmacist-intern in the internship

1 program.

2 28. "Prescription drug" means any of the following:

3 a. A substance for which federal or state law requires a
4 prescription before it may be legally dispensed to the public.

5 b. A drug or device that under federal law is required,
6 prior to being dispensed or delivered, to be labeled with
7 either of the following statements:

8 (1) Caution: Federal law prohibits dispensing without a
9 prescription.

10 (2) Caution: Federal law restricts this drug to use by or
11 on the order of a licensed veterinarian.

12 c. A drug or device that is required by any applicable
13 federal or state law or regulation to be dispensed on
14 prescription only, or is restricted to use by a practitioner
15 only.

16 29. "Prescription drug order" means a written order from a
17 practitioner or an oral order from a practitioner or the
18 practitioner's authorized agent who communicates the
19 practitioner's instructions, to a pharmacist for a
20 prescription drug or device to be dispensed.

21 30. "Proprietary medicine" means a nonnarcotic drug or
22 device that may be sold without a prescription and that is
23 labeled and packaged in compliance with applicable state or
24 federal law.

25 31. "Ultimate user" means a person who has lawfully
26 obtained and possesses a prescription drug or device for the
27 person's own use or for the use of a member of the person's
28 household or for administering to an animal owned by the
29 person or by a member of the person's household.

30 32. "Unit dose packaging" means the packaging of
31 individual doses of a drug in containers which preserve the
32 identity and integrity of the drug from the point of packaging
33 to administration and which are properly labeled pursuant to
34 rules of the board.

35 33. "Wholesaler" means a person operating or maintaining,

1 either within or outside this state, a manufacturing plant,
2 wholesale distribution center, wholesale business, or any
3 other business in which prescription drugs, medicinal
4 chemicals, medicines, or poisons are sold, manufactured,
5 compounded, dispensed, stocked, exposed, or offered for sale
6 at wholesale in this state. "Wholesaler" does not include
7 those wholesalers who sell only proprietary medicines.

8 Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST
9 UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION
10 DRUGS -- EXCEPTIONS.

11 1. A person shall not dispense or distribute prescription
12 drugs unless that person is a licensed pharmacist or is
13 authorized by this chapter or section 147.107 to dispense or
14 distribute prescription drugs.

15 2. Notwithstanding subsection 1, it is not unlawful for:

16 a. A manufacturer or wholesaler to distribute prescription
17 drugs as provided by state or federal law.

18 b. A practitioner, licensed by the appropriate state
19 board, to dispense prescription drugs to patients as incident
20 to the practice of the profession, if the practitioner does
21 not operate a pharmacy for the retailing of prescription
22 drugs.

23 c. A practitioner, licensed by the appropriate state
24 board, to administer drugs to patients. This chapter does not
25 prevent a practitioner from delegating the administration of a
26 prescription drug to a nurse, intern, or other qualified
27 individual or, in the case of a veterinarian, to an orderly or
28 assistant, under the practitioner's direction and supervision
29 and pursuant to rules adopted by the board of pharmacy
30 examiners.

31 d. A person to sell at retail a proprietary medicine, an
32 insecticide, a fungicide, or a chemical used in the arts, if
33 properly labeled.

34 e. A person to procure prescription drugs for lawful
35 research, teaching, or testing and not for resale.

1 Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

2 Notwithstanding the existence or pursuit of any other
3 remedy the board may, in the manner provided by law, maintain
4 an action in the name of the state for injunction or other
5 process against any person to restrain or prevent the
6 establishment, conduct, management, or operation of a pharmacy
7 or wholesaler, without license, or to prevent the violation of
8 provisions of this chapter. Upon request of the board, the
9 attorney general shall institute the proper proceedings and
10 the county attorney, at the request of the attorney general,
11 shall appear and prosecute the action when brought in the
12 county attorney's county.

13 Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS -- PHARMACIST-
14 INTERN REGISTRATION.

15 1. A program of pharmacist internships is established.
16 Each internship is subject to approval by the board.

17 2. A person desiring to be a pharmacist-intern in this
18 state shall apply to the board for registration. The
19 application must be on a form prescribed by the board. A
20 pharmacist-intern must be registered during internship
21 training and thereafter pursuant to rules adopted by the
22 board.

23 3. The board shall establish standards for registration
24 and may deny, suspend, or revoke a pharmacist-intern
25 registration for failure to meet the standards or for any
26 violation of this chapter.

27 4. The board shall adopt rules in accordance with chapter
28 17A on matters pertaining to registration standards,
29 registration fees, conditions of registration, termination of
30 registration, and approval of preceptors.

31 Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

32 A person shall not engage in the practice of pharmacy in
33 this state without a license. The license shall be identified
34 as a pharmacist license.

35 Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST

1 LICENSE.

2 To qualify for a pharmacist license, an applicant shall
3 meet the following requirements:

4 1. Be a graduate of a school or college of pharmacy or of
5 a department of pharmacy of a university recognized and
6 approved by the board.

7 2. File proof, satisfactory to the board, of internship
8 for a period of time fixed by the board.

9 3. Pass an examination prescribed by the board.

10 Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES --
11 GRADUATES OF FOREIGN COLLEGES.

12 1. A college of pharmacy shall not be approved by the
13 board unless the college is accredited by the American council
14 on pharmaceutical education.

15 2. An applicant who is a graduate of a school or college
16 of pharmacy located outside the United States but who is
17 otherwise qualified to apply for a pharmacist license in this
18 state may be deemed to have satisfied the requirements of
19 section 155A.8, subsection 1, by verification to the board of
20 the applicant's academic record and graduation and by meeting
21 other requirements established by rule of the board. The
22 board may require the applicant to pass an examination or
23 examinations given or approved by the board to establish
24 proficiency in English and equivalency of education as a
25 prerequisite for taking the licensure examination required in
26 section 155A.8, subsection 3.

27 Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST
28 LICENSE.

29 A pharmacist shall publicly display the license to practice
30 pharmacy and the license renewal certificate pursuant to rules
31 adopted by the board.

32 Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST
33 LICENSE.

34 The board shall specify by rule the procedures to be
35 followed and the fee to be paid for a renewal certificate, and

1 penalties for late renewal or failure to renew a pharmacist
2 license.

3 Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE --
4 GROUNDS FOR DISCIPLINE.

5 The board shall refuse to issue a pharmacist license for
6 failure to meet the requirements of section 155A.8. The board
7 may refuse to issue or renew a license or may impose a fine,
8 issue a reprimand, or revoke, restrict, cancel, or suspend a
9 license, and may place a licensee on probation, if the board
10 finds that the applicant or licensee has done any of the
11 following:

12 1. Violated any provision of this chapter or any rules of
13 the board adopted under this chapter.

14 2. Engaged in unethical conduct as that term is defined by
15 rules of the board.

16 3. Violated any of the provisions for licensee discipline
17 set forth in section 147.55.

18 4. Failed to keep and maintain records required by this
19 chapter or failed to keep and maintain complete and accurate
20 records of purchases and disposal of drugs listed in the
21 controlled substances Act.

22 5. Violated any provision of the controlled substances Act
23 or rules relating to that Act.

24 6. Aided or abetted an unlicensed individual to engage in
25 the practice of pharmacy.

26 7. Refused an entry into any pharmacy for any inspection
27 authorized by this chapter.

28 8. Violated the pharmacy or drug laws or rules of any
29 other state of the United States while under the other state's
30 jurisdiction.

31 9. Been convicted of an offense or subjected to a penalty
32 or fine for violation of chapter 147, 203, 203A, 204, or the
33 Federal Food, Drug and Cosmetic Act. A plea or verdict of
34 guilty, or a conviction following a plea of nolo contendere,
35 is deemed to be a conviction within the meaning of this

1 section.

2 10. Had a license to practice pharmacy issued by another
3 state canceled, revoked, or suspended for conduct
4 substantially equivalent to conduct described in subsections 1
5 through 9. A certified copy of the record of the state taking
6 action as set out above shall be conclusive evidence of the
7 action taken by such state.

8 Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

9 1. A person shall not establish, conduct, or maintain a
10 pharmacy in this state without a license. The license shall
11 be identified as a pharmacy license.

12 2. The board shall specify by rule the licensing
13 procedures to be followed, including specifications of forms
14 for use in applying for a pharmacy license and fees for filing
15 an application.

16 3. The board may issue a special or limited-use pharmacy
17 license based upon special conditions of use imposed pursuant
18 to rules adopted by the board for cases in which the board
19 determines that certain requirements may be waived.

20 4. To qualify for a pharmacy license, the applicant shall
21 submit to the board a license fee as determined by the board
22 and a completed application on a form prescribed by the board
23 that shall include the following information and be given
24 under oath:

25 a. Ownership.

26 b. Location.

27 c. The license number of each pharmacist employed by the
28 pharmacy at the time of application.

29 d. The trade or corporate name of the pharmacy.

30 e. The name of the pharmacist in charge, who has the
31 authority and responsibility for the pharmacy's compliance
32 with laws and rules pertaining to the practice of pharmacy.

33 5. A person who falsely makes the affidavit prescribed in
34 subsection 4 is subject to all penalties prescribed for making
35 a false affidavit.

1 6. A pharmacy license issued by the board under this
2 chapter shall be issued in the name of the pharmacist in
3 charge and is not transferable or assignable.

4 7. The board shall specify by rule minimum standards for
5 professional responsibility in the conduct of a pharmacy.

6 8. A separate license is required for each principal place
7 of practice.

8 9. The license of the pharmacy shall be displayed.

9 Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY
10 LICENSE.

11 The board shall specify by rule the procedures to be
12 followed and the fee to be paid for a renewal certificate, and
13 the penalties for late renewal or failure to renew a pharmacy
14 license.

15 Sec. 15. NEW SECTION. 155A.15 PHARMACIES -- LICENSE
16 REQUIRED -- DISCIPLINE, VIOLATIONS, AND PENALTIES.

17 1. A pharmacy subject to section 155A.13 shall not be
18 operated until a license or renewal certificate has been
19 issued to the pharmacy by the board.

20 2. The board shall refuse to issue a pharmacy license for
21 failure to meet the requirements of section 155A.13. The
22 board may refuse to issue or renew a license or may impose a
23 fine, issue a reprimand, or revoke, restrict, cancel, or
24 suspend a license, and may place a licensee on probation, if
25 the board finds that the applicant or licensee has done any of
26 the following:

27 a. Been convicted of a felony or a misdemeanor involving
28 moral turpitude, or if the applicant is an association, joint
29 stock company, partnership, or corporation, that a managing
30 officer has been convicted of a felony or a misdemeanor
31 involving moral turpitude, under the law of this state,
32 another state, or the United States.

33 b. Advertised any prescription drugs or devices in a
34 deceitful, misleading, or fraudulent manner.

35 c. Violated any provision of this chapter or any rule

1 adopted under this chapter or that any owner or employee of
2 the pharmacy has violated any provision of this chapter or any
3 rule adopted under this chapter.

4 d. Delivered without legal authorization prescription
5 drugs or devices to a person other than one of the following:

6 (1) A pharmacy licensed by the board.

7 (2) A practitioner.

8 (3) A person who procures prescription drugs or devices
9 for the purpose of lawful research, teaching, or testing, and
10 not for resale.

11 (4) A manufacturer or wholesaler licensed by the board.

12 However, this chapter does not prohibit a pharmacy from furnishing
13 a prescription drug or device to a licensed health care facility
14 for storage in a secured emergency pharmaceutical supplies
15 container maintained within the facility in accordance with
16 regulations of the Iowa department of public health.

17 e. Allowed an employee who is not a licensed pharmacist
18 to practice pharmacy.

19 f. Delivered mislabeled prescription or nonprescription
20 drugs.

21 g. Failed to engage in or ceased to engage in the business
22 described in the application for a license.

23 h. Failed to keep and maintain records as required by
24 this chapter, the controlled substances Act,
25 or rules adopted under the controlled substances Act.

26 i. Failed to establish effective controls against diversion
27 of prescription drugs into other than legitimate medical,
28 scientific, or industrial channels as provided by this chapter
29 and other Iowa or federal laws or rules.

30 Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

31 Unless otherwise provided, any disciplinary action taken
32 by the board under section 155A.12 or 155A.15 is governed
33 by chapter 17A and the rules of practice and procedure
34 before the board.

35 Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

1 A person shall not establish, conduct or maintain a
2 wholesale drug business as defined in this chapter without a
3 license. The license shall be identified as a wholesale
4 drug license.

5 Sec. 18. NEW SECTION. 155A.18 PENALTIES.

6 The board shall impose penalties as allowed under section
7 258A.3. In addition, civil penalties not to exceed twenty-five
8 thousand dollars, may be imposed.

9 Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

10 1. A pharmacy shall report in writing to the board,
11 pursuant to its rules, the following:

12 a. Permanent closing.

13 b. Change of ownership.

14 c. Change of location.

15 d. Change of pharmacist in charge.

16 e. The sale or transfer of prescription drugs, including
17 controlled substances, on the permanent closing or change
18 of ownership of the pharmacy.

19 f. Out-of-state purchases of controlled substances.

20 g. Theft or significant loss of any controlled substance
21 on discovery of the theft or loss.

22 h. Disasters, accidents, and emergencies that may affect
23 the strength, purity, or labeling of drugs, medications,
24 devices, or other materials used in the diagnosis or the
25 treatment of injury, illness, and disease.

26 2. A pharmacist shall report in writing to the board
27 within ten days a change of address or place of employment.

28 Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND
29 TITLES -- IMPERSONATION.

30 1. A person shall not display in or on any store or place
31 of business the word or words: "apothecary", "drug", "drug
32 store", or "pharmacy", either in English or any other language,
33 any other word or combination of words of the same or similar
34 meaning, or any graphic representation that would mislead
35 the public unless it is a pharmacy or drug wholesaler licensed

1 under this chapter.

2 2. A person shall not do any of the following:

3 a. Impersonate before the board an applicant applying
4 for licensing under this chapter.

5 b. Impersonate an Iowa licensed pharmacist.

6 c. Use the title pharmacist, druggist, apothecary, or
7 words of similar intent unless the person is licensed to
8 practice pharmacy.

9 3. A pharmacist shall not utilize the title "Dr." or
10 "Doctor" if that pharmacist has not acquired the doctor of
11 pharmacy degree from an approved college of
12 pharmacy or the doctor of philosophy degree in an
13 area related to pharmacy.

14 Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF
15 PRESCRIPTION DRUG -- PENALTY.

16 1. A person found in possession of a drug limited to
17 dispensation by prescription, unless the drug was so lawfully
18 dispensed, commits a serious misdemeanor.

19 2. Subsection 1 does not apply to a licensed pharmacy,
20 licensed wholesaler, physician, veterinarian, dentist,
21 podiatrist, therapeutically certified optometrist, a nurse
22 acting under the direction of a physician, or the board of
23 pharmacy examiners, its officers, agents, inspectors, and
24 representatives, nor to a common carrier or messenger when
25 transporting the drug in the same unbroken package in which
26 the drug was delivered to that person for transportation.

27 Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.

28 A person who violates any of the provisions of this chapter
29 or any chapter pertaining to or affecting the practice of
30 pharmacy for which a specific penalty is not provided
31 commits a simple misdemeanor.

32 Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.

33 A person shall not:

34 1. Obtain or attempt to obtain a prescription drug or
35 procure or attempt to procure the administration of a prescription

1 drug by:

2 a. Fraud, deceit, misrepresentation, or subterfuge.

3 b. Forgery or alteration of a prescription or of any written
4 order.

5 c. Concealment of a material fact.

6 d. Use of a false name or the giving of a false address.

7 2. Willfully make a false statement in any prescription,
8 report, or record required by this chapter.

9 3. For the purpose of obtaining a prescription drug, falsely
10 assume the title of or claim to be a manufacturer, wholesaler,
11 pharmacist, pharmacy owner, physician, dentist, podiatrist,
12 veterinarian, or other authorized person.

13 4. Make or utter any false or forged prescription or
14 written order.

15 5. Affix any false or forged label to a package or receptacle
16 containing prescription drugs.

17 Information communicated to a physician in an unlawful effort
18 to procure a prescription drug or to procure the administration
19 of a prescription drug shall not be deemed a privileged
20 communication.

21 Sec. 24. NEW SECTION. 155A.24 PENALTIES.

22 A person who violates a provision of section 155A.23 or who
23 sells or offers for sale, gives away, or administers to another
24 person any prescription drug commits a public offense and
25 shall be punished as follows:

26 If the prescription drug is a controlled substance,
27 the person shall be punished pursuant
28 to section 204.401, subsection 1, and section 204.411.

29 If the
30 prescription drug is not a controlled substance, the person, upon
31 conviction of a first offense, is guilty of a serious misdemeanor.
32 For a second offense, or if in case of a first offense
33 the offender previously has
34 been convicted of any violation of the laws of the United
35 States or of any state, territory, or district thereof

1 relating to prescription drugs, the offender is guilty of an
2 aggravated misdemeanor. For a third or subsequent offense
3 or if in the case of a second offense
4 the offender previously has been convicted two or
5 more times in the aggregate of any violation of the laws of the
6 United States or of any state, territory, or district thereof
7 relating to prescription drugs, the offender is guilty of a
8 class "D" felony.

9 A person who violates any provision of this chapter by selling,
10 giving away, or administering any prescription drug to a minor
11 is guilty of a class "C" felony.

12 This section does not prevent a licensed practitioner of
13 medicine, dentistry, podiatry, nursing, veterinary medicine,
14 or pharmacy from acts necessary in the ethical and legal
15 performance of the practitioner's profession.

16 Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

17 In any complaint, information, or indictment, and in any
18 action or proceeding brought for the enforcement of any provisions
19 of this chapter, it shall not be necessary to negate any
20 exception, excuse, proviso, or exemption contained in this
21 chapter, and the burden of proof of any such exception,
22 excuse, proviso, or exemption shall be upon the defendant.

23 Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT -- AGENTS
24 AS PEACE OFFICERS.

25 The board of pharmacy examiners, its
26 officers, agents, inspectors, and representatives, and all
27 peace officers within the state, and all county attorneys shall
28 enforce all provisions of this chapter, except those specifically
29 delegated, and shall cooperate with all agencies charged with the
30 enforcement of the laws of the United States, of this state,
31 and of all other states relating to prescription drugs. Officers,
32 agents, inspectors, and representatives of the board of pharmacy
33 examiners shall have the powers and status of peace officers when
34 enforcing the provisions of this chapter.

35 Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR PRESCRIPTION.

- 1 Each prescription drug order issued or filled in this state:
2 1. If written, shall contain:
3 a. The date of issue.
4 b. The name and address of the patient for whom, or the
5 owner of the animal for which, the drug is dispensed.
6 c. The name, strength, and quantity of the drug, medicine,
7 or device prescribed.
8 d. The directions for use of the drug, medicine, or device
9 prescribed.
10 e. The name, address, and signature of the practitioner issuing
11 the prescription.
12 f. The federal drug enforcement administration
13 number, if required under chapter 204.
14 2. If oral, the practitioner issuing the prescription shall
15 furnish the same information required for a written prescription,
16 except for the written signature of the practitioner.
17 Upon receipt of an oral prescription, the pharmacist shall promptly
18 reduce the oral prescription to a written format by recording the
19 information required in a written prescription.
20 Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION DRUGS.
21 The label of any drug or device sold and dispensed on the
22 prescription of a practitioner shall be in compliance with rules
23 adopted by the board.
24 Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.
25 1. Except as specified in subsection 2, a prescription for
26 any prescription drug or device which is not a controlled
27 substance shall not be filled or
28 refilled more than one year after the date on which the
29 prescription was issued and a prescription which is authorized
30 to be refilled shall not be refilled more than eleven times.
31 2. A pharmacist may exercise professional judgment by
32 refilling a prescription without prescriber authorization if
33 both of the following are true:
34 a. Failure to refill the prescription might result in an
35 interruption of therapeutic regimen or create patient suffering.

1 b. The pharmacist informs the patient or the patient's
2 representative at the time of dispensing, and the practitioner
3 at the earliest convenience that prescriber reauthorization
4 is required.

5 Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION
6 ORDERS.

7 Prescription drug orders issued by out-of-state practitioners
8 who would be authorized to prescribe if they were practicing
9 in Iowa may be filled by licensed pharmacists operating in
10 licensed Iowa pharmacies.

11 Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

12 A licensed pharmacy in this state shall maintain a reference
13 library pursuant to rules of the board.

14 Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT
15 SELECTION -- RESTRICTIONS.

16 1. If an authorized prescriber
17 prescribes, either in writing or orally, a drug by its brand
18 or trade name,
19 the pharmacist may exercise professional
20 judgment in the economic interest of the patient
21 by selecting a drug product with the same generic name and
22 demonstrated bioavailability as
23 the one prescribed for dispensing and sale
24 to the patient. If the pharmacist does so, the pharmacist
25 shall inform the patient
26 of the savings which the patient will obtain as a result of
27 the drug product selection
28 and pass on to the patient
29 no less than fifty percent of the difference
30 in actual acquisition costs between the drug prescribed and
31 the drug substituted.

32 2. The pharmacist shall not exercise the drug
33 product selection described in this section if either of the
34 following is true:

35 a. The prescriber specifically indicates that no

1 drug product selection shall be made.

2 b. The person presenting the prescription indicates
3 that only the specific drug product prescribed should be
4 dispensed.

5 3. If selection of a generically equivalent product
6 is made under this section, the pharmacist making the selection
7 shall note that fact and the name of the manufacturer of the
8 selected drug on the prescription presented by the patient
9 or the patient's adult representative.

10 Sec. 33. NEW SECTION. 155A.33 DELEGATION OF NONJUDGMENTAL
11 FUNCTIONS.

12 A pharmacist may delegate nonjudgmental dispensing functions
13 to assistants, but only if the pharmacist is physically
14 present to verify the accuracy and completeness of the patient's
15 prescription prior to delivery to the patient or the patient's
16 representative.

17 Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

18 A pharmacist may transfer a valid prescription order to another
19 pharmacist pursuant to rules adopted by the board.

20 Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION RECORDS.

21 A licensed pharmacy shall maintain patient medication records
22 in accordance with rules adopted by the board.

23 Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY SYSTEMS.

24 Drugs dispensed utilizing unit dose packaging shall comply
25 with labeling and packaging requirements in accordance
26 with rules adopted by
27 the board.

28 Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL
29 RESPONSIBILITY FOR BOARD EMPLOYEES.

30 1. The board shall adopt a code of professional responsibility
31 to regulate the conduct of board employees responsible for
32 inspections and surveys of pharmacies.

33 2. The code shall contain a procedure to be followed by
34 personnel of the board in all of the following:

35 a. On entering a pharmacy.

1 b. During inspection of the pharmacy.

2 c. During the exit conference.

3 3. The code shall contain standards of conduct that personnel
4 of the board are to follow in dealing with the staff and
5 management of the pharmacy and the general public.

6 4. The board shall establish a procedure for receiving and
7 investigating complaints of violations of this code. The board
8 shall investigate all complaints of violations. The results of
9 an investigation shall be forwarded to the complainant.

10 5. The board may adopt rules establishing sanctions for
11 violations of this code of professional responsibility.

12 Sec. 38. Section 106.12, subsection 2, Code 1987, is
13 amended to read as follows:

14 2. ~~No~~ A person shall not operate any vessel, or manipulate
15 any water skis, surfboard or similar device while under the
16 influence of an alcoholic beverage, marijuana, a narcotic,
17 hypnotic or other drug, or any combination of these
18 substances. However, this subsection ~~shall~~ does not apply to
19 a person operating any vessel or manipulating any water skis,
20 surfboard or similar device while under the influence of
21 marijuana, or a narcotic, hypnotic or other drug if the
22 substances were prescribed for the person and have been taken
23 under the prescription and in accordance with the directions
24 of a medical practitioner as defined in ~~section-155-37~~
25 ~~subsection-11~~ chapter 155A, provided there is no evidence of
26 the consumption of alcohol and further provided the medical
27 practitioner has not directed the person to refrain from
28 operating a motor vehicle, any vessel or from manipulating any
29 water skis, surfboard or similar device.

30 Sec. 39. Section 135.61, subsection 10, Code 1987, is
31 amended to read as follows:

32 10. "Health care provider" means a person licensed or
33 certified under chapter 147, 148, 148A, 148C, 149, 150, 150A,
34 151, 152, 153, 154, 154B, or ~~155~~ 155A to provide in this state
35 professional health care service to an individual during that

1 individual's medical care, treatment or confinement.

2 Sec. 40. Section 152.1, subsection 1, paragraph a, Code
3 1987, is amended to read as follows:

4 a. The practice of medicine and surgery, as defined in
5 chapter 148, the osteopathic practice, as defined in chapter
6 150, the practice of osteopathic medicine and surgery, as
7 defined in chapter 150A, or the practice of pharmacy as
8 defined in chapter ~~155~~ 155A, except practices which are
9 recognized by the medical and nursing professions and approved
10 by the board as proper to be performed by a registered nurse.

11 Sec. 41. Section 166.3, Code 1987, is amended to read as
12 follows:

13 166.3 PERMIT TO MANUFACTURE OR SELL.

14 Every person, before engaging as a manufacturer of, or
15 dealer in, biological products shall obtain from the
16 department a permit for that purpose and shall be required to
17 have a separate permit for each place of business. No A
18 pharmacy licensed under chapter ~~155~~ 155A shall not be required
19 to obtain a dealer's permit to deal in biological products.

20 Sec. 42. Section 203A.19, unnumbered paragraph 1, Code
21 1987, is amended to read as follows:

22 Any prescription drug, as defined in ~~section-155-37~~
23 ~~subsection-10~~ chapter 155A, is misbranded unless:

24 Sec. 43. Section 204.308, subsection 3, Code 1987, is
25 amended to read as follows:

26 3. Except when dispensed directly by a practitioner, other
27 than a pharmacy, to an ultimate user, a controlled substance
28 included in schedule III or IV, which is a prescription drug
29 as determined under ~~section-155-37-subsections-9-and-10~~
30 chapter 155A, shall not be dispensed without a written or oral
31 prescription of a practitioner. The prescription may not be
32 filled or refilled more than six months after the date thereof
33 or be refilled more than five times, unless renewed by the
34 practitioner.

35 Sec. 44. Section 258A.5, subsection 2, paragraph c, Code

1 1987, is amended to read as follows:

2 c. Shall state whether the procedures are an alternative
3 to or an addition to the procedures stated in sections 114.22,
4 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to
5 148.9, 153.23 to 153.30, 153.33, and 154A.23, ~~and 155-14 to~~
6 ~~155-16.~~

7 Sec. 45. Section 321J.2, subsection 6, Code 1987, is
8 amended to read as follows:

9 6. This section does not apply to a person operating a
10 motor vehicle while under the influence of a drug if the
11 substance was prescribed for the person and was taken under
12 the prescription and in accordance with the directions of a
13 medical practitioner as defined in ~~section 155-37-subsection~~
14 ~~11~~ chapter 155A, if there is no evidence of the consumption of
15 alcohol and the medical practitioner had not directed the
16 person to refrain from operating a motor vehicle.

17 Sec. 46. Section 422.45, subsection 13, Code 1987, is
18 amended to read as follows:

19 13. The gross receipts from the sale of prescription
20 drugs, as defined in ~~section 155-37-subsection 10~~ chapter
21 155A, if dispensed for human use or consumption by a
22 registered pharmacist licensed under chapter ~~155~~ 155A, a
23 physician and surgeon licensed under chapter 148, an osteopath
24 licensed under chapter 150, an osteopathic physician and
25 surgeon licensed under chapter 150A, a dentist licensed under
26 chapter 153, or a podiatrist licensed under chapter 149.

27 Sec. 47. Section 514.5, unnumbered paragraph 3, is amended
28 to read as follows:

29 Any pharmaceutical or optometric service corporation
30 organized under the provisions of said chapter may enter into
31 contracts for the rendering of pharmaceutical or optometric
32 service to any of its subscribers. Membership in any
33 pharmaceutical service corporation shall be open to all
34 pharmacies licensed under chapter ~~155~~ 155A.

35 Sec. 48. Chapter 155, Code 1987, is repealed.

EXPLANATION

1
2 This bill repeals chapter 155, relating to the regulation
3 of pharmacists and prescription drugs, and enacts a new
4 chapter 155A in its place.

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HOUSE FILE 594

AN ACT

RELATING TO THE REGULATION OF PHARMACISTS AND PHARMACIES AND TO ADMINISTRATION, DISPENSING, AND DISTRIBUTION OF CERTAIN DRUGS, AND PROVIDING PENALTIES.

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

Section 1. NEW SECTION. 155A.1 SHORT TITLE.

This chapter may be cited as the "Iowa Pharmacy Practice Act."

Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION -- PURPOSE.

1. It is the purpose of this chapter to promote, preserve, and protect the public health, safety, and welfare through the effective regulation of the practice of pharmacy and the licensing of pharmacies, pharmacists, and others engaged in the sale, delivery, or distribution of prescription drugs and devices or other classes of drugs or devices which may be authorized.

2. Practitioners licensed under a separate chapter of the Code are not regulated by this chapter except when engaged in the operation of a pharmacy for the retailing of prescription drugs.

Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by one of the following:

a. A practitioner or the practitioner's authorized agent.

o. The patient or research subject at the direction of a practitioner.

2. "Authorized agent" means an individual designated by a practitioner who is under the supervision of the practitioner and for whom the practitioner assumes legal responsibility.

3. "Board" means the board of pharmacy examiners.

4. "Brand name" or "trade name" means the registered trademark name given to a drug product or ingredient by its manufacturer, labeler, or distributor.

5. "College of pharmacy" means a school, university, or college of pharmacy that satisfies the accreditation standards of the American council on pharmaceutical education as adopted by the board, or that has degree requirements which meet the standards of accreditation adopted by the board.

6. "Controlled substance" means a drug substance, immediate precursor, or other substance listed in division II of chapter 204.

7. "Controlled substances Act" means chapter 204.

8. "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

9. "Demonstrated bioavailability" means the rate and extent of absorption of a drug or drug ingredient from a specified dosage form, as reflected by the time-concentration curve of the drug or drug ingredient in the systemic circulation.

10. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

11. "Dispense" means to deliver a prescription drug or controlled substance to an ultimate user or research subject by or pursuant to the lawful prescription drug order or

medication order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

12. "Distribute" means the delivery of a prescription drug or device.

13. "Drug" means one or more of the following:

a. A substance recognized as a drug in the current official United States Pharmacopoeia and National Formulary, official Homeopathic Pharmacopoeia, or other drug compendium or any supplement to any of them.

b. A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

c. A substance, other than food, intended to affect the structure or any function of the body of humans or other animals.

d. A substance intended for use as a component of any substance specified in paragraph "a", "b", or "c".

e. A controlled substance.

14. "Drug product selection" means the act of selecting the source of supply of a drug product.

15. "Generic name" means the official title of a drug or drug ingredient published in the current official United States Pharmacopoeia and National Formulary, official Homeopathic Pharmacopoeia, or other drug compendium published by the United States pharmacopoeial convention or any supplement to any of them.

16. "Internship" means a practical experience program approved by the board for persons training to become pharmacists.

17. "Label" means written, printed, or graphic matter on the immediate container of a drug or device.

18. "Labeling" means the process of preparing and affixing a label including information required by federal or state law or regulation to a drug or device container. The term does

not include the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged prescription drug or device or unit dose packaging.

19. "Medication order" means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent for administration of a drug or device.

20. "Pharmacist" means a person licensed by the board to practice pharmacy.

21. "Pharmacist in charge" means the pharmacist designated on a pharmacy license as the pharmacist who has the authority and responsibility for the pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

22. "Pharmacist-intern" means an undergraduate student enrolled in the professional sequence of a college of pharmacy approved by the board, or a graduate of a college of pharmacy, who is participating in a board-approved internship under the supervision of a preceptor.

23. "Pharmacy" means a location where prescription drugs are compounded, dispensed, or sold by a pharmacist and where prescription drug orders are received or processed in accordance with the pharmacy laws.

24. "Pharmacy license" means a license issued to a pharmacy or other place where prescription drugs or devices are dispensed to the general public pursuant to a prescription drug order.

25. "Practice of pharmacy" is a dynamic patient-oriented health service profession that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and related drug therapy.

26. "Practitioner" means a physician, dentist, podiatrist, veterinarian, or other person licensed or registered to distribute or dispense a prescription drug or device in the course of professional practice in this state or a person licensed by another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

27. "Preceptor" means a pharmacist in good standing licensed in this state to practice pharmacy and approved by the board to supervise and be responsible for the activities and functions of a pharmacist-intern in the internship program.

28. "Prescription drug" means any of the following:

a. A substance for which federal or state law requires a prescription before it may be legally dispensed to the public.

b. A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) Caution: Federal law prohibits dispensing without a prescription.

(2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

c. A drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only, or is restricted to use by a practitioner only.

29. "Prescription drug order" means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent who communicates the practitioner's instructions, to a pharmacist for a prescription drug or device to be dispensed.

30. "Proprietary medicine" means a nonnarcotic drug or device that may be sold without a prescription and that is labeled and packaged in compliance with applicable state or federal law.

31. "Ultimate user" means a person who has lawfully obtained and possesses a prescription drug or device for the person's own use or for the use of a member of the person's household or for administering to an animal owned by the person or by a member of the person's household.

32. "Unit dose packaging" means the packaging of individual doses of a drug in containers which preserve the

identity and integrity of the drug from the point of packaging to administration and which are properly labeled pursuant to rules of the board.

33. "Wholesaler" means a person operating or maintaining, either within or outside this state, a manufacturing plant, wholesale distribution center, wholesale business, or any other business in which prescription drugs, medicinal chemicals, medicines, or poisons are sold, manufactured, compounded, dispensed, stocked, exposed, or offered for sale at wholesale in this state. "Wholesaler" does not include those wholesalers who sell only proprietary medicines.

34. "Wholesale salesperson" or "manufacturer's representative" means an individual who takes purchase orders on behalf of a wholesaler for prescription drugs, medicinal chemicals, medicines, or poisons. "Wholesale salesperson" or "manufacturer's representative" does not include an individual who sells only proprietary medicines.

Sec. 4. NEW SECTION. 155A.4 PROHIBITION AGAINST UNLICENSED PERSONS DISPENSING OR DISTRIBUTING PRESCRIPTION DRUGS -- EXCEPTIONS.

1. A person shall not dispense prescription drugs unless that person is a licensed pharmacist or is authorized by section 147.107 to dispense or distribute prescription drugs.

2. Notwithstanding subsection 1, it is not unlawful for:

a. A manufacturer or wholesaler to distribute prescription drugs as provided by state or federal law.

b. A practitioner, licensed by the appropriate state board, to dispense prescription drugs to patients as incident to the practice of the profession, except with respect to the operation of a pharmacy for the retailing of prescription drugs.

c. A practitioner, licensed by the appropriate state board, to administer drugs to patients. This chapter does not prevent a practitioner from delegating the administration of a prescription drug to a nurse, intern, or other qualified

individual or, in the case of a veterinarian, to an orderly or assistant, under the practitioner's direction and supervision.

d. A person to sell at retail a proprietary medicine, an insecticide, a fungicide, or a chemical used in the arts, if properly labeled.

e. A person to procure prescription drugs for lawful research, teaching, or testing and not for resale.

f. A pharmacy to distribute a prescription drug to another pharmacy or to a practitioner.

Sec. 5. NEW SECTION. 155A.5 INJUNCTION.

Notwithstanding the existence or pursuit of any other remedy the board may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person to restrain or prevent the establishment, conduct, management, or operation of a pharmacy or wholesaler, without license, or to prevent the violation of provisions of this chapter. Upon request of the board, the attorney general shall institute the proper proceedings and the county attorney, at the request of the attorney general, shall appear and prosecute the action when brought in the county attorney's county.

Sec. 6. NEW SECTION. 155A.6 INTERNSHIPS -- PHARMACIST-INTERN REGISTRATION.

1. A program of pharmacist internships is established. Each internship is subject to approval by the board.

2. A person desiring to be a pharmacist-intern in this state shall apply to the board for registration. The application must be on a form prescribed by the board. A pharmacist-intern must be registered during internship training and thereafter pursuant to rules adopted by the board.

3. The board shall establish standards for registration and may deny, suspend, or revoke a pharmacist-intern registration for failure to meet the standards or for any violation of this chapter.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to registration standards, registration fees, conditions of registration, termination of registration, and approval of preceptors.

Sec. 7. NEW SECTION. 155A.7 PHARMACIST LICENSE.

A person shall not engage in the practice of pharmacy in this state without a license. The license shall be identified as a pharmacist license.

Sec. 8. NEW SECTION. 155A.8 REQUIREMENTS FOR PHARMACIST LICENSE.

To qualify for a pharmacist license, an applicant shall meet the following requirements:

1. Be a graduate of a school or college of pharmacy or of a department of pharmacy of a university recognized and approved by the board.

2. File proof, satisfactory to the board, of internship for a period of time fixed by the board.

3. Pass an examination prescribed by the board.

Sec. 9. NEW SECTION. 155A.9 APPROVED COLLEGES -- GRADUATES OF FOREIGN COLLEGES.

1. A college of pharmacy shall not be approved by the board unless the college is accredited by the American council on pharmaceutical education.

2. An applicant who is a graduate of a school or college of pharmacy located outside the United States but who is otherwise qualified to apply for a pharmacist license in this state may be deemed to have satisfied the requirements of section 155A.8, subsection 1, by verification to the board of the applicant's academic record and graduation and by meeting other requirements established by rule of the board. The board may require the applicant to pass an examination or examinations given or approved by the board to establish proficiency in English and equivalency of education as a prerequisite for taking the licensure examination required in section 155A.8, subsection 3.

Sec. 10. NEW SECTION. 155A.10 DISPLAY OF PHARMACIST LICENSE.

A pharmacist shall publicly display the license to practice pharmacy and the license renewal certificate pursuant to rules adopted by the board.

Sec. 11. NEW SECTION. 155A.11 RENEWAL OF PHARMACIST LICENSE.

The board shall specify by rule the procedures to be followed and the fee to be paid for a renewal certificate, and penalties for late renewal or failure to renew a pharmacist license.

Sec. 12. NEW SECTION. 155A.12 PHARMACIST LICENSE -- GROUNDS FOR DISCIPLINE.

The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.
2. Engaged in unethical conduct as that term is defined by rules of the board.
3. Violated any of the provisions for licensee discipline set forth in section 147.55.
4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.
5. Violated any provision of the controlled substances Act or rules relating to that Act.
6. Aided or abetted an unlicensed individual to engage in the practice of pharmacy.

7. Refused an entry into any pharmacy for any inspection authorized by this chapter.

8. Violated the pharmacy or drug laws or rules of any other state of the United States while under the other state's jurisdiction.

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 203, 203A, 204, or the Federal Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

10. Had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

Sec. 13. NEW SECTION. 155A.13 PHARMACY LICENSE.

1. A person shall not establish, conduct, or maintain a pharmacy in this state without a license. The license shall be identified as a pharmacy license. A pharmacy license issued pursuant to subsection 4 may be further identified as a hospital pharmacy license.

2. The board shall specify by rule the licensing procedures to be followed, including specifications of forms for use in applying for a pharmacy license and fees for filing an application.

3. The board may issue a special or limited-use pharmacy license based upon special conditions of use imposed pursuant to rules adopted by the board for cases in which the board determines that certain requirements may be waived.

4. The board shall adopt rules for the issuance of a hospital pharmacy license to a hospital which provides pharmacy services for its own use. The rules shall:

a. Recognize the special needs and circumstances of hospital pharmacies.

b. Give due consideration to the scope of pharmacy services that the hospital's medical staff and governing board elect to provide for the hospital's own use.

c. Consider the size, location, personnel, and financial needs of the hospital.

d. Give recognition to the standards of the joint commission on accreditation of hospitals and the American osteopathic association and to the conditions of participation under medicare.

To the maximum extent possible, the board shall coordinate the rules with the standards and conditions described in paragraph "d" and shall coordinate its inspections of hospital pharmacies with the medicare surveys of the department of inspections and appeals and with the board's inspections with respect to controlled substances conducted under contract with the federal government.

A hospital which provides pharmacy services by contracting with a licensed pharmacy is not required to obtain a hospital pharmacy license or a general pharmacy license.

5. A hospital which elects to operate a pharmacy for other than its own use is subject to the requirements for a general pharmacy license. If the hospital's pharmacy services for other than its own use are special or limited, the board may issue a special or limited-use pharmacy license pursuant to subsection 3.

6. To qualify for a pharmacy license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board that shall include the following information and be given under oath:

- a. Ownership.
- b. Location.

c. The license number of each pharmacist employed by the pharmacy at the time of application.

d. The trade or corporate name of the pharmacy.

e. The name of the pharmacist in charge, who has the authority and responsibility for the pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

7. A person who falsely makes the affidavit prescribed in subsection 6 is subject to all penalties prescribed for making a false affidavit.

8. A pharmacy license issued by the board under this chapter shall be issued in the name of the pharmacist in charge and is not transferable or assignable.

9. The board shall specify by rule minimum standards for professional responsibility in the conduct of a pharmacy.

10. A separate license is required for each principal place of practice.

11. The license of the pharmacy shall be displayed.

Sec. 14. NEW SECTION. 155A.14 RENEWAL OF PHARMACY LICENSE.

The board shall specify by rule the procedures to be followed and the fee to be paid for a renewal certificate, and the penalties for late renewal or failure to renew a pharmacy license.

Sec. 15. NEW SECTION. 155A.15 PHARMACIES -- LICENSE REQUIRED -- DISCIPLINE, VIOLATIONS, AND PENALTIES.

1. A pharmacy subject to section 155A.13 shall not be operated until a license or renewal certificate has been issued to the pharmacy by the board.

2. The board shall refuse to issue a pharmacy license for failure to meet the requirements of section 155A.13. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

a. Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony or a misdemeanor involving moral turpitude, under the law of this state, another state, or the United States.

b. Advertised any prescription drugs or devices in a deceitful, misleading, or fraudulent manner.

c. Violated any provision of this chapter or any rule adopted under this chapter or that any owner or employee of the pharmacy has violated any provision of this chapter or any rule adopted under this chapter.

d. Delivered without legal authorization prescription drugs or devices to a person other than one of the following:

(1) A pharmacy licensed by the board.

(2) A practitioner.

(3) A person who procures prescription drugs or devices for the purpose of lawful research, teaching, or testing, and not for resale.

(4) A manufacturer or wholesaler licensed by the board. However, this chapter does not prohibit a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with regulations of the Iowa department of public health.

e. Allowed an employee who is not a licensed pharmacist to practice pharmacy.

f. Delivered mislabeled prescription or nonprescription drugs.

g. Failed to engage in or ceased to engage in the business described in the application for a license.

h. Failed to keep and maintain records as required by this chapter, the controlled substances Act, or rules adopted under the controlled substances Act.

1. Failed to establish effective controls against diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by this chapter and other Iowa or federal laws or rules.

Sec. 16. NEW SECTION. 155A.16 PROCEDURE.

Unless otherwise provided, any disciplinary action taken by the board under section 155A.12 or 155A.15 is governed by chapter 17A and the rules of practice and procedure before the board.

Sec. 17. NEW SECTION. 155A.17 WHOLESALE DRUG LICENSE.

A person shall not establish, conduct or maintain a wholesale drug business as defined in this chapter without a license. The license shall be identified as a wholesale drug license. This section does not apply to a manufacturer's representative acting in the usual course of business or employment as a manufacturer's representative.

Sec. 18. NEW SECTION. 155A.18 PENALTIES.

The board shall impose penalties as allowed under section 258A.3. In addition, civil penalties not to exceed twenty-five thousand dollars, may be imposed.

Sec. 19. NEW SECTION. 155A.19 NOTIFICATIONS TO BOARD.

1. A pharmacy shall report in writing to the board, pursuant to its rules, the following:

a. Permanent closing.

b. Change of ownership.

c. Change of location.

d. Change of pharmacist in charge.

e. The sale or transfer of prescription drugs, including controlled substances, on the permanent closing or change of ownership of the pharmacy.

f. Out-of-state purchases of controlled substances.

g. Theft or significant loss of any controlled substance on discovery of the theft or loss.

h. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications,

devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.

2. A pharmacist shall report in writing to the board within ten days a change of address or place of employment.

Sec. 20. NEW SECTION. 155A.20 UNLAWFUL USE OF TERMS AND TITLES -- IMPERSONATION.

1. A person shall not display in or on any store or place of business the word or words: "apothecary", "drug", "drug store", or "pharmacy", either in English or any other language, any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead the public unless it is a pharmacy or drug wholesaler licensed under this chapter.

2. A person shall not do any of the following:

a. Impersonate before the board an applicant applying for licensing under this chapter.

b. Impersonate an Iowa licensed pharmacist.

c. Use the title pharmacist, druggist, apothecary, or words of similar intent unless the person is licensed to practice pharmacy.

3. A pharmacist shall not utilize the title "Dr." or "Doctor" if that pharmacist has not acquired the doctor of pharmacy degree from an approved college of pharmacy or the doctor of philosophy degree in an area related to pharmacy.

Sec. 21. NEW SECTION. 155A.21 UNLAWFUL POSSESSION OF PRESCRIPTION DRUG -- PENALTY.

1. A person found in possession of a drug limited to dispensation by prescription, unless the drug was so lawfully dispensed, commits a serious misdemeanor.

2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatrist, therapeutically certified optometrist, a nurse acting under the direction of a physician, or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier, manufacturer's

representative, or messenger when transporting the drug in the same unbroken package in which the drug was delivered to that person for transportation.

Sec. 22. NEW SECTION. 155A.22 GENERAL PENALTY.

A person who violates any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty is not provided commits a simple misdemeanor.

Sec. 23. NEW SECTION. 155A.23 PROHIBITED ACTS.

A person shall not:

1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a prescription drug by:

a. Fraud, deceit, misrepresentation, or subterfuge.

b. Forgery or alteration of a prescription or of any written order.

c. Concealment of a material fact.

d. Use of a false name or the giving of a false address.

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

3. For the purpose of obtaining a prescription drug, falsely assume the title of or claim to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatrist, veterinarian, or other authorized person.

4. Make or utter any false or forged prescription or written order.

5. Affix any false or forged label to a package or receptacle containing prescription drugs.

Information communicated to a physician in an unlawful effort to procure a prescription drug or to procure the administration of a prescription drug shall not be deemed a privileged communication.

Sec. 24. NEW SECTION. 155A.24 PENALTIES.

A person who violates a provision of section 155A.23 or who sells or offers for sale, gives away, or administers to

another person any prescription drug commits a public offense and shall be punished as follows:

If the prescription drug is a controlled substance, the person shall be punished pursuant to section 204.401, subsection 1, and section 204.411.

If the prescription drug is not a controlled substance, the person, upon conviction of a first offense, is guilty of a serious misdemeanor. For a second offense, or if in case of a first offense the offender previously has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender is guilty of an aggravated misdemeanor. For a third or subsequent offense or if in the case of a second offense the offender previously has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs, the offender is guilty of a class "D" felony.

A person who violates any provision of this chapter by selling, giving away, or administering any prescription drug to a minor is guilty of a class "C" felony.

This section does not prevent a licensed practitioner of medicine, dentistry, podiatry, nursing, veterinary medicine, or pharmacy from acts necessary in the ethical and legal performance of the practitioner's profession.

Sec. 25. NEW SECTION. 155A.25 BURDEN OF PROOF.

In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provisions of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

Sec. 26. NEW SECTION. 155A.26 ENFORCEMENT -- AGENTS AS PEACE OFFICERS.

The board of pharmacy examiners, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to prescription drugs. Officers, agents, inspectors, and representatives of the board of pharmacy examiners shall have the powers and status of peace officers when enforcing the provisions of this chapter.

Sec. 27. NEW SECTION. 155A.27 REQUIREMENTS FOR PRESCRIPTION.

Each prescription drug order issued or filled in this state:

1. If written, shall contain:
 - a. The date of issue.
 - b. The name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed.
 - c. The name, strength, and quantity of the drug, medicine, or device prescribed.
 - d. The directions for use of the drug, medicine, or device prescribed.
 - e. The name, address, and signature of the practitioner issuing the prescription.
 - f. The federal drug enforcement administration number, if required under chapter 204.

2. If oral, the practitioner issuing the prescription shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner. Upon receipt of an oral prescription, the pharmacist shall promptly reduce the oral prescription to a written format by recording the information required in a written prescription.

Sec. 28. NEW SECTION. 155A.28 LABEL OF PRESCRIPTION DRUGS.

The label of any drug or device sold and dispensed on the prescription of a practitioner shall be in compliance with rules adopted by the board.

Sec. 29. NEW SECTION. 155A.29 PRESCRIPTION REFILLS.

1. Except as specified in subsection 2, a prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than eleven times.

2. A pharmacist may exercise professional judgment by refilling a prescription without prescriber authorization if all of the following are true:

a. The pharmacist is unable to contact the prescriber after reasonable effort.

b. Failure to refill the prescription might result in an interruption of therapeutic regimen or create patient suffering.

c. The pharmacist informs the patient or the patient's representative at the time of dispensing, and the practitioner at the earliest convenience that prescriber reauthorization is required.

3. Prescriptions may be refilled once pursuant to subsection 2 for a period of time reasonably necessary for the pharmacist to secure prescriber authorization.

Sec. 30. NEW SECTION. 155A.30 OUT-OF-STATE PRESCRIPTION ORDERS.

Prescription drug orders issued by out-of-state practitioners who would be authorized to prescribe if they were practicing in Iowa may be filled by licensed pharmacists operating in licensed Iowa pharmacies.

Sec. 31. NEW SECTION. 155A.31 REFERENCE LIBRARY.

A licensed pharmacy in this state shall maintain a reference library pursuant to rules of the board.

Sec. 32. NEW SECTION. 155A.32 DRUG PRODUCT SELECTION -- RESTRICTIONS.

1. If an authorized prescriber prescribes, either in writing or orally, a drug by its brand or trade name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale. If the pharmacist exercises drug product selection, the pharmacist shall inform the patient of the savings which the patient will obtain as a result of the drug product selection and pass on to the patient no less than fifty percent of the difference in actual acquisition costs between the drug prescribed and the drug substituted.

2. The pharmacist shall not exercise the drug product selection described in this section if either of the following is true:

a. The prescriber specifically indicates that no drug product selection shall be made.

b. The person presenting the prescription indicates that only the specific drug product prescribed should be dispensed. However, this paragraph does not apply if the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A.

3. If selection of a generically equivalent product is made under this section, the pharmacist making the selection shall note that fact and the name of the manufacturer of the selected drug on the prescription presented by the patient or the patient's adult representative.

Sec. 33. NEW SECTION. 155A.33 DELEGATION OF NONJUDGMENTAL FUNCTIONS.

A pharmacist may delegate nonjudgmental dispensing functions to assistants, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient's prescription prior to delivery to the patient or the patient's representative.

Sec. 34. NEW SECTION. 155A.34 TRANSFER OF PRESCRIPTIONS.

A pharmacist may transfer a valid prescription order to another pharmacist pursuant to rules adopted by the board.

Sec. 35. NEW SECTION. 155A.35 PATIENT MEDICATION RECORDS.

A licensed pharmacy shall maintain patient medication records in accordance with rules adopted by the board.

Sec. 36. NEW SECTION. 155A.36 MEDICATION DELIVERY SYSTEMS.

Drugs dispensed utilizing unit dose packaging shall comply with labeling and packaging requirements in accordance with rules adopted by the board.

Sec. 37. NEW SECTION. 155A.37 CODE OF PROFESSIONAL RESPONSIBILITY FOR BOARD EMPLOYEES.

1. The board shall adopt a code of professional responsibility to regulate the conduct of board employees responsible for inspections and surveys of pharmacies.
2. The code shall contain a procedure to be followed by personnel of the board in all of the following:
 - a. On entering a pharmacy.
 - b. During inspection of the pharmacy.
 - c. During the exit conference.
3. The code shall contain standards of conduct that personnel of the board are to follow in dealing with the staff and management of the pharmacy and the general public.
4. The board shall establish a procedure for receiving and investigating complaints of violations of this code. The board shall investigate all complaints of violations. The

results of an investigation shall be forwarded to the complainant.

5. The board may adopt rules establishing sanctions for violations of this code of professional responsibility.

Sec. 38. Section 106.12, subsection 2, Code 1987, is amended to read as follows:

2. No A person shall not operate any vessel, or manipulate any water skis, surfboard or similar device while under the influence of an alcoholic beverage, marijuana, a narcotic, hypnotic or other drug, or any combination of these substances. However, this subsection shall does not apply to a person operating any vessel or manipulating any water skis, surfboard or similar device while under the influence of marijuana, or a narcotic, hypnotic or other drug if the substances were prescribed for the person and have been taken under the prescription and in accordance with the directions of a medical practitioner as defined in ~~section 155.37~~ subsection 11 chapter 155A, provided there is no evidence of the consumption of alcohol and further provided the medical practitioner has not directed the person to refrain from operating a motor vehicle, any vessel or from manipulating any water skis, surfboard or similar device.

Sec. 39. Section 135.61, subsection 10, Code 1987, is amended to read as follows:

10. "Health care provider" means a person licensed or certified under chapter 147, 148, 148A, 148C, 149, 150, 150A, 151, 152, 153, 154, 154B, or ~~155~~ 155A to provide in this state professional health care service to an individual during that individual's medical care, treatment or confinement.

Sec. 40. Section 147.74, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A pharmacist who possesses a doctoral degree recognized by the American council of pharmaceutical education from a college of pharmacy approved by the board of pharmacy examiners or a doctor of philosophy

degree in an area related to pharmacy may use the prefix "Doctor" or "Dr." but shall add after the person's name the word "Pharmacist" or "Pharm. D."

Sec. 41. Section 152.1, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. The practice of medicine and surgery, as defined in chapter 148, the osteopathic practice, as defined in chapter 150, the practice of osteopathic medicine and surgery, as defined in chapter 150A, or the practice of pharmacy as defined in chapter 155 155A, except practices which are recognized by the medical and nursing professions and approved by the board as proper to be performed by a registered nurse.

Sec. 42. Section 166.3, Code 1987, is amended to read as follows:

166.3 PERMIT TO MANUFACTURE OR SELL.

Every person, before engaging as a manufacturer of, or dealer in, biological products shall obtain from the department a permit for that purpose and shall be required to have a separate permit for each place of business. No pharmacy licensed under chapter 155 155A shall not be required to obtain a dealer's permit to deal in biological products.

Sec. 43. Section 203A.19, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Any prescription drug, as defined in section 155.3, subsection 19 chapter 155A, is misbranded unless:

Sec. 44. Section 204.308, subsection 3, Code 1987, is amended to read as follows:

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under section 155.3, subsections 4 and 10 chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date issued or be refilled more than five times, unless renewed by the practitioner.

Sec. 45. Section 258A.9, subsection 2, paragraph c, Code 1987, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 114.22, 116.22, 117.35, 117.36, 118A.16, 117.59 to 117.71, 149.6 to 148.9, 153.21 to 153.30, 153.31, and 154A.22 and 155.14 to 155.15.

Sec. 46. Section 321.7, subsection 6, Code 1987, is amended to read as follows:

6. This section does not apply to a person operating a motor vehicle while under the influence of a drug if the substance was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in section 155.3 subsection 19 chapter 155A, if there is no evidence of the consumption of alcohol and the medical practitioner had not directed the person to refrain from operating a motor vehicle.

Sec. 47. Section 422.45, subsection 11, Code 1987, is amended to read as follows:

11. The gross receipts from the sale of prescription drugs, as defined in section 155.3 subsection 16 chapter 155A, if dispensed for human use or consumption by a registered pharmacist licensed under chapter 155 155A, a physician and surgeon licensed under chapter 148, an osteopath licensed under chapter 150, an osteopathic physician and surgeon licensed under chapter 150A, a dentist licensed under chapter 153, or a pediatrician licensed under chapter 149.

Sec. 48. Section 514.5, unnumbered paragraph 3, is amended to read as follows:

Any pharmaceutical or optometric service corporation organized under the provisions of said chapter may enter into contracts for the rendering of pharmaceutical or optometric service to any of its subscribers. Membership in any pharmaceutical service corporation shall be open to all pharmacies licensed under chapter 155 155A.

Sec. 49. Chapter 155, Code 1987, is repealed.

Sec. 50. The provisions of this Act requiring that hospital pharmacies be licensed shall not take effect until January 1, 1988.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 594, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved June 5, 1987

TERRY E. BRANSTAD
Governor

H. F. 594