

FEB 9 2004  
HUMAN RESOURCES

HOUSE FILE 2191  
BY MURPHY

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the establishment of a cancer drug  
2 repository program.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2191

1 Section 1. NEW SECTION. 135.26 CANCER DRUG REPOSITORY  
2 PROGRAM.

3 The department shall establish a cancer drug repository  
4 program for accepting donated cancer drugs and dispensing such  
5 drugs to residents of this state.

6 1. Any person or entity, including, but not limited to, a  
7 cancer drug manufacturer, or health care facility as defined  
8 in section 135C.1, may donate cancer drugs to the cancer drug  
9 repository program. Cancer drugs may be donated at a  
10 physician's office, pharmacy, hospital, or health clinic that  
11 elects to participate in the program and meets criteria for  
12 such participation established by the department.

13 Participation in the program shall be on a voluntary basis.

14 2. A cancer drug shall only be accepted or dispensed under  
15 the program if the drug is in its original, unopened, sealed,  
16 and tamper-evident unit dose packaging, except that a cancer  
17 drug packaged in single unit doses may be accepted and  
18 dispensed if the outside packaging is opened but the single-  
19 unit-dose packaging is unopened. A cancer drug shall not be  
20 accepted or dispensed if the drug bears an expiration date  
21 that is earlier than six months after the date the drug was  
22 donated, or is adulterated or misbranded. Subject to the  
23 limitations provided in this subsection, unused cancer drugs  
24 dispensed under the medical assistance program established in  
25 chapter 249A may be accepted and dispensed under the cancer  
26 drug repository program.

27 3. A physician's office, pharmacy, hospital, or health  
28 clinic that accepts donated cancer drugs under the program  
29 shall comply with all applicable provisions of state and  
30 federal law relating to the storage, distribution, and  
31 dispensing of such drugs and shall inspect all such drugs  
32 prior to dispensing to determine if they are adulterated or  
33 misbranded. Drugs accepted into the program shall only be  
34 dispensed to eligible persons pursuant to a prescription  
35 issued by a prescribing practitioner, as defined in section

1 155A.3, and may be distributed to another participating  
2 physician's office, pharmacy, hospital, or health clinic for  
3 dispensing. A physician's office, pharmacy, hospital, or  
4 health clinic may charge a handling fee for distributing or  
5 dispensing cancer drugs under the program, in an amount to be  
6 determined by the department by rule. Cancer drugs donated  
7 under the program shall not be resold.

8 4. Any person or entity, including a cancer drug  
9 manufacturer, exercising reasonable care in donating,  
10 accepting, distributing, or dispensing cancer drugs under the  
11 program shall be immune from civil or criminal liability or  
12 professional disciplinary action for any injury, death, or  
13 loss to person or property relating to such activities. The  
14 donation of a cancer drug by a cancer drug manufacturer does  
15 not, however, absolve the manufacturer of any criminal or  
16 civil liability that would have existed but for the donation,  
17 nor shall such donation increase any liability of such cancer  
18 drug manufacturer which otherwise would have existed.

19 5. The department, upon the recommendation of the board of  
20 pharmacy examiners, shall adopt rules relating to the  
21 establishment of the program. The rules shall include, but  
22 not be limited to, determining eligibility criteria and other  
23 standards and procedures relating to the acceptance,  
24 distribution, or dispensing of donated cancer drugs; forms  
25 necessary for administration of the program; the fees that may  
26 be imposed by physician's offices, pharmacies, hospitals, or  
27 health clinics; and categories of cancer drugs deemed suitable  
28 or unsuitable for acceptance by the program.

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#### EXPLANATION

30 This bill provides for the establishment by the Iowa  
31 department of public health of a voluntary program for  
32 accepting donated cancer drugs and dispensing such drugs to  
33 residents of this state.

34 The bill provides that any person or entity may donate  
35 cancer drugs to the cancer drug repository program, at a

1 physician's office, pharmacy, hospital, or health clinic that  
2 elects to participate in the program and meets criteria for  
3 such participation established by the department. The bill  
4 provides that a cancer drug shall only be accepted or  
5 dispensed if the drug is in its original, unopened, sealed,  
6 and tamper-evident unit dose packaging, but that a drug  
7 packaged in single unit doses may be accepted and dispensed if  
8 the outside packaging is opened but the single-unit-dose  
9 packaging is unopened. The bill provides that a cancer drug  
10 shall not be accepted or dispensed if the drug bears an  
11 expiration date that is earlier than six months after the date  
12 the drug was donated, or is adulterated or misbranded. The  
13 bill provides that unused cancer drugs dispensed under the  
14 medical assistance program established in Code chapter 249A  
15 may be accepted and dispensed under the program.

16 The bill provides that a physician's office, pharmacy,  
17 hospital, or health clinic that accepts donated cancer drugs  
18 under the program shall comply with all applicable provisions  
19 of state and federal law relating to the storage,  
20 distribution, and dispensing of such drugs, that all drugs  
21 shall be inspected prior to dispensing, and that drugs  
22 accepted into the program shall only be dispensed to eligible  
23 persons pursuant to a prescription issued by a prescribing  
24 practitioner as defined in Code section 155A.3. The bill  
25 provides that a physician's office, pharmacy, hospital, or  
26 health clinic may charge a handling fee for distributing or  
27 dispensing cancer drugs in an amount to be determined by the  
28 department by rule, and that cancer drugs donated under the  
29 program shall not be resold.

30 The bill provides that a person or entity, including a  
31 cancer drug manufacturer, exercising reasonable care in  
32 donating, accepting, distributing, or dispensing cancer drugs  
33 under the program shall be immune from civil or criminal  
34 liability or professional disciplinary action for any injury,  
35 death, or loss to person or property, and that the donation of

1 a cancer drug by a cancer drug manufacturer does not absolve  
2 the manufacturer of any criminal or civil liability that would  
3 have existed but for the donation or increase any liability  
4 which otherwise would have existed.

5 The bill provides for the adoption of administrative rules  
6 by the Iowa department of public health, acting with the  
7 recommendation of the board of pharmacy examiners. The bill  
8 provides that the rules shall include, but not be limited to,  
9 determining eligibility criteria relating to the acceptance,  
10 distribution, or dispensing of the drugs, necessary  
11 administrative forms, fees, and categories of cancer drugs  
12 deemed suitable or unsuitable for acceptance.

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