

FEB 19 2004  
HUMAN RESOURCES

HOUSE FILE 2324  
BY HEATON

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

**A BILL FOR**

1 An Act relating to electronic and facsimile prescriptions and  
2 making penalties applicable.

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

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HF 2324

1 Section 1. Section 124.101, Code 2003, is amended by  
2 adding the following new subsections:

3 NEW SUBSECTION. 13A. "Electronic prescription" means a  
4 prescription which is transmitted by a computer device in a  
5 secure manner, including computer-to-computer transmission and  
6 computer-to-facsimile transmission.

7 NEW SUBSECTION. 13B. "Facsimile prescription" means a  
8 prescription which is transmitted by a device which sends an  
9 exact image to the receiver.

10 Sec. 2. Section 124.308, subsections 1 and 3, Code 2003,  
11 are amended to read as follows:

12 1. Except when dispensed directly by a practitioner, other  
13 than a pharmacy, to an ultimate user, no controlled substance  
14 in schedule II may be dispensed without the written  
15 prescription of a practitioner or without the electronic or  
16 facsimile prescription of a practitioner in accordance with  
17 subsection 1A.

18 3. Except when dispensed directly by a practitioner, other  
19 than a pharmacy, to an ultimate user, a controlled substance  
20 included in schedule III or IV, which is a prescription drug  
21 as determined under chapter 155A, shall not be dispensed  
22 without a written or oral prescription of a practitioner or  
23 without an electronic or facsimile prescription in accordance  
24 with subsection 3A. The prescription may not be filled or  
25 refilled more than six months after the date thereof or be  
26 refilled more than five times, unless renewed by the  
27 practitioner.

28 Sec. 3. Section 124.308, Code 2003, is amended by adding  
29 the following new subsections:

30 NEW SUBSECTION. 1A. A practitioner, other than a  
31 pharmacy, or a practitioner's authorized agent may transmit an  
32 electronic prescription or facsimile prescription to a  
33 pharmacy for a schedule II controlled substance, provided that  
34 the electronic prescription complies with section 155A.27 and  
35 provided that the original signed prescription is presented to

1 the pharmacist prior to the dispensing of the schedule II  
2 controlled substance. If permitted by federal law, and in  
3 accordance with federal requirements, the electronic or  
4 facsimile prescription shall serve as the original signed  
5 prescription and the practitioner shall not provide the  
6 patient or the patient's authorized representative with a  
7 signed, written prescription.

8 NEW SUBSECTION. 3A. A practitioner, other than a  
9 pharmacy, or the practitioner's authorized agent may transmit  
10 an electronic prescription or a facsimile prescription to a  
11 pharmacy for a schedule III, IV, or V controlled substance,  
12 provided that the prescription complies with section 155A.27,  
13 and provided that the original signed prescription is  
14 presented to the pharmacist prior to the dispensing of the  
15 controlled substance, or if the prescription is electronic, an  
16 oral prescription or a facsimile prescription is provided. If  
17 permitted by federal law, and in accordance with federal  
18 requirements, the electronic or facsimile prescription shall  
19 serve as the original signed prescription and the practitioner  
20 shall not provide the patient or the patient's authorized  
21 representative with a signed, written prescription.

22 Sec. 4. Section 126.2, Code 2003, is amended by adding the  
23 following new subsections:

24 NEW SUBSECTION. 8A. "Electronic prescription" means a  
25 prescription which is transmitted by a computer device in a  
26 secure manner, including computer-to-computer transmission and  
27 computer-to-facsimile transmission.

28 NEW SUBSECTION. 8B. "Facsimile prescription" means a  
29 prescription which is transmitted by a device which sends an  
30 exact image to the receiver.

31 Sec. 5. Section 126.11, subsection 3, paragraph a,  
32 unnumbered paragraph 2, Code 2003, is amended to read as  
33 follows:

34 Such a drug shall be dispensed only upon a written,  
35 electronic, or facsimile prescription of a practitioner

1 licensed by law to administer the drug, or upon an oral  
2 prescription of such a practitioner which is reduced promptly  
3 to writing and filed by the pharmacist, or by refilling any  
4 such written, electronic, facsimile, or oral prescription if  
5 the refilling is authorized by the prescriber either in the  
6 original written, electronic, or facsimile prescription or by  
7 oral order which is reduced promptly to writing and filed by  
8 the pharmacist. The act of dispensing a drug contrary to this  
9 paragraph while the drug is held for sale results in the drug  
10 being misbranded.

11 Sec. 6. Section 126.11, subsection 3, paragraph b, Code  
12 2003, is amended to read as follows:

13 b. A drug dispensed by filling or refilling a written,  
14 electronic, facsimile, or oral prescription of a practitioner  
15 licensed by law to administer the drug is exempt from section  
16 126.10, except subsection 1, subsection 9, paragraphs "b" and  
17 "c", and subsections 11 and 12, and the packaging requirements  
18 of subsections 7, 8, and 16, if the drug bears a label  
19 containing the name and address of the dispenser, the date of  
20 the prescription or of its filling, the name of the  
21 prescriber, and, if stated in the prescription, the name of  
22 the patient, and the directions for use and cautionary  
23 statements, if any, contained in the prescription. This  
24 exemption does not apply to a drug dispensed in the course of  
25 the conduct of the business of dispensing drugs pursuant to  
26 diagnosis by mail, or to a drug dispensed in violation of  
27 paragraph "a" of this subsection.

28 Sec. 7. Section 126.11, subsection 3, Code 2003, is  
29 amended by adding the following new paragraph:

30 NEW PARAGRAPH. f. All electronic or facsimile  
31 prescriptions transmitted under this section shall comply with  
32 section 155A.27.

33 Sec. 8. Section 147.107, subsection 2, unnumbered  
34 paragraph 3, Code Supplement 2003, is amended to read as  
35 follows:

1 A physician, dentist, or podiatric physician who dispenses  
2 prescription drugs, other than drug samples, pursuant to this  
3 subsection, shall offer to provide the patient with a written  
4 prescription that may be dispensed from a pharmacy of the  
5 patient's choice or offer to transmit the prescription  
6 electronically or by facsimile in accordance with section  
7 155A.27 to a pharmacy of the patient's choice.

8 Sec. 9. Section 147.108, subsection 1, Code 2003, is  
9 amended to read as follows:

10 1. A person shall not dispense or adapt contact lenses  
11 without first receiving authorization to do so by a written,  
12 electronic, or facsimile prescription, except when authorized  
13 orally under subsection 2, from a person licensed under  
14 chapter 148, 150, 150A, or 154. The board of optometry  
15 examiners shall adopt rules relating to electronic or  
16 facsimile transmission of a prescription under this section.

17 Sec. 10. Section 147.109, subsection 1, Code 2003, is  
18 amended to read as follows:

19 1. A person shall not dispense or adapt an ophthalmic  
20 spectacle lens or lenses without first receiving authorization  
21 to do so by a written, electronic, or facsimile prescription  
22 from a person licensed under chapter 148, 150, 150A, or 154.  
23 For the purpose of this section, "ophthalmic spectacle lens"  
24 means one which has been fabricated to fill the requirements  
25 of a particular spectacle lens prescription. The board of  
26 optometry examiners shall adopt rules relating to electronic  
27 or facsimile transmission of a prescription under this  
28 section.

29 Sec. 11. Section 155A.3, Code 2003, is amended by adding  
30 the following new subsections:

31 NEW SUBSECTION. 15A. "Electronic order" or "electronic  
32 prescription" means an order or prescription which is  
33 transmitted by a computer device in a secure manner, including  
34 computer-to-computer transmission and computer-to-facsimile  
35 transmission.

1 NEW SUBSECTION. 15B. "Facsimile order" or "facsimile  
2 prescription" means an order or prescription which is  
3 transmitted by a device which sends an exact image to the  
4 receiver.

5 Sec. 12. Section 155A.3, subsection 31, Code 2003, is  
6 amended to read as follows:

7 31. "Prescription drug order" means a written, electronic,  
8 or facsimile order from a practitioner or an oral order from a  
9 practitioner or the practitioner's authorized agent who  
10 communicates the practitioner's instructions for a  
11 prescription drug or device to be dispensed.

12 Sec. 13. Section 155A.23, subsection 1, paragraph b, Code  
13 2003, is amended to read as follows:

14 b. Forgery or alteration of a written, electronic, or  
15 facsimile prescription or of any written, electronic, or  
16 facsimile order.

17 Sec. 14. Section 155A.23, subsection 4, Code 2003, is  
18 amended to read as follows:

19 4. Make or utter any false or forged oral, written,  
20 electronic, or facsimile prescription or oral, written,  
21 electronic, or facsimile order.

22 Sec. 15. Section 155A.27, subsection 1, unnumbered  
23 paragraph 1, Code 2003, is amended to read as follows:

24 If written, ~~or~~ electronic, or facsimile shall contain:

25 Sec. 16. Section 155A.27, Code 2003, is amended by adding  
26 the following new subsections:

27 NEW SUBSECTION. 1A. If electronic:

28 a. The practitioner shall ensure that the electronic  
29 system used to transmit the electronic prescription has  
30 adequate security and system safeguards designed to prevent  
31 and detect unauthorized access, modification, or manipulation  
32 of the prescription.

33 b. The practitioner shall provide verbal verification of  
34 the electronic prescription upon the request of the pharmacy.

35 NEW SUBSECTION. 1B. a. If facsimile, in addition to the

1 requirements of subsection 1, shall contain all of the  
2 following:

3 (1) The identification number of the facsimile machine  
4 which is used to transmit the prescription.

5 (2) The time and date of transmission of the prescription.

6 (3) The name, address, telephone number, and facsimile  
7 number of the pharmacy to which the prescription is being  
8 transmitted.

9 b. A practitioner shall provide verbal verification of the  
10 facsimile prescription upon the request of the pharmacy.

11 Sec. 17. Section 155A.32, subsections 1 and 3, Code 2003,  
12 are amended to read as follows:

13 1. If an authorized prescriber prescribes, ~~either~~ in  
14 writing, electronically, by facsimile, or orally, a drug by  
15 its brand or trade name, the pharmacist may exercise  
16 professional judgment in the economic interest of the patient  
17 by selecting a drug product with the same generic name and  
18 demonstrated bioavailability as the one prescribed for  
19 dispensing and sale to the patient. If the cost of the  
20 prescription or any part of it will be paid by expenditure of  
21 public funds authorized under chapter 249A, the pharmacist  
22 shall exercise professional judgment by selecting a drug  
23 product with the same generic name and demonstrated  
24 bioavailability as the one prescribed for dispensing and sale.  
25 If the pharmacist exercises drug product selection, the  
26 pharmacist shall inform the patient of the savings which the  
27 patient will obtain as a result of the drug product selection  
28 and pass on to the patient no less than fifty percent of the  
29 difference in actual acquisition costs between the drug  
30 prescribed and the drug substituted.

31 3. If selection of a generically equivalent product is  
32 made under this section, the pharmacist making the selection  
33 shall note that fact and the name of the manufacturer of the  
34 selected drug on the prescription presented by the patient or  
35 the patient's adult representative or transmitted by the

1 prescriber or the prescriber's authorized agent.

2 EXPLANATION

3 This bill provides for the electronic and facsimile  
4 transmission of prescriptions.

5 Under the controlled substances chapter of the Code, the  
6 bill provides that a schedule II controlled substance may be  
7 dispensed based on an electronic or facsimile prescription, if  
8 the prescription complies with the requirements for such a  
9 prescription established under the bill and if the original  
10 signed prescription is presented to the pharmacist prior to  
11 the dispensing of the controlled substance. The bill provides  
12 that if permitted by federal law, and in accordance with  
13 federal requirements, the electronic or facsimile prescription  
14 shall serve as the original signed prescription.

15 Additionally, the bill provides that a schedule III, IV, or  
16 V controlled substance may be dispensed based on an electronic  
17 prescription or a facsimile prescription, provided that the  
18 prescription complies with requirements established for such  
19 prescriptions under the bill and provided that if the  
20 prescription is an electronic or facsimile prescription, the  
21 original signed prescription is presented to the pharmacist  
22 prior to the dispensing of the controlled substance, or if the  
23 prescription is electronic, an oral prescription or a  
24 facsimile prescription is provided. The bill provides that if  
25 permitted by federal law, and in accordance with federal  
26 requirements, the electronic or facsimile prescription shall  
27 serve as the original signed prescription.

28 The bill provides for the use of electronic or facsimile  
29 prescriptions under the drugs, devices, and cosmetics Code  
30 chapter and under the drug dispensing, supplying, and  
31 prescribing provisions of the health-related professions  
32 chapter of the Code, and provides for the use of electronic  
33 and facsimile prescriptions related to contact lenses and  
34 ophthalmic spectacle lenses.

35 The bill establishes requirements for the inclusion of



1 certain information in an electronic or facsimile transmission  
2 under the pharmacy chapter, and makes existing penalties  
3 currently applicable to the forgery, alteration, or falsifying  
4 of other types of prescriptions under Code section 155A.24,  
5 applicable to electronic and facsimile prescriptions.

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