

Senate Study Bill 1073

SENATE/HOUSE FILE _____
BY (PROPOSED BOARD OF
PHARMACY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the practice of pharmacy by establishing a
2 registration program for pharmacy support persons and
3 regulating the internet sale of prescription products,
4 including a program of registration of pharmacy internet
5 sites, making penalties applicable, and establishing a general
6 definition for the term "internet site".
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 1416DP 83
9 jr/rj/8

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1 1 Section 1. Section 4.1, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 9B. "Internet site" means a specific
1 4 location on the internet that is determined by internet
1 5 protocol numbers, by a domain name, or by both, including but
1 6 not limited to domain names that use the designations ".com",
1 7 ".edu", ".gov", ".org", and ".net".
1 8 Sec. 2. Section 155A.3, subsection 38, Code 2009, is
1 9 amended to read as follows:
1 10 38. "Prescription drug order" means ~~a written, electronic,~~
~~1 11 or facsimile an order from transmitted, delivered, or~~
~~1 12 otherwise communicated to a pharmacist by a practitioner or an~~
~~1 13 oral order from as directed by a practitioner or the~~
~~1 14 practitioner's authorized agent who communicates the~~
~~1 15 practitioner's instructions in the authorized course of~~
~~1 16 professional practice~~ for a prescription drug or device to be
1 17 dispensed.
1 18 Sec. 3. NEW SECTION. 155A.6B PHARMACY SUPPORT PERSON
1 19 REGISTRATION.
1 20 1. The board shall establish a registration program for
1 21 pharmacy support persons who work in a licensed pharmacy and
1 22 who are not licensed pharmacists or registered pharmacy
1 23 technicians for the purposes of identification, tracking, and
1 24 disciplinary action for the violation of federal drug laws or
1 25 regulations, state drug or pharmacy laws, or board rules. The
1 26 registration shall not include any determination of the
1 27 competency of the registered individual and, notwithstanding
1 28 section 272C.2, subsection 1, shall not require continuing
1 29 education for renewal.
1 30 2. A person registered with the board as a pharmacy
1 31 support person may assist pharmacists by performing routine
1 32 clerical and support functions. Such a person shall not
1 33 perform any professional duties or any technical or dispensing
1 34 duties. The ultimate responsibility for the actions of a
1 35 pharmacy support person working under a licensed pharmacist's
2 1 supervision shall remain with the licensed pharmacist.
2 2 3. Applicants for registration must apply to the board for
2 3 registration on a form prescribed by the board.
2 4 4. The board shall adopt rules in accordance with chapter
2 5 17A on matters pertaining to pharmacy support person
2 6 registration, application, renewals, fees, termination of
2 7 registration, training, and any other relevant matters.
2 8 5. The board may deny, suspend, or revoke the registration
2 9 of a pharmacy support person or otherwise discipline the
2 10 pharmacy support person for any violation of the laws of this
2 11 state, another state, or the United States relating to
2 12 prescription drugs, controlled substances, or nonprescription
2 13 drugs, or for any violation of this chapter or chapter 124,
2 14 124A, 124B, 126, 147, 205, or 272C, or any rule of the board.
2 15 Sec. 4. NEW SECTION. 155A.13B PHARMACY INTERNET SITES.

2 16 1. As used in this section:
2 17 a. "Electronic mail" means any message transmitted through
2 18 the internet including but not limited to messages transmitted
2 19 from or to any address affiliated with an internet site.
2 20 b. "Internet broker" means an entity that serves as an
2 21 agent or intermediary or other capacity that causes the
2 22 internet to be used to bring together a buyer and seller.
2 23 c. "Internet sale" means a transaction, initiated via an
2 24 internet site, that includes the order of and the payment for
2 25 a prescription drug product.

2 26 2. A pharmacy operating within or outside this state shall
2 27 not sell, dispense, distribute, deliver, or participate in the
2 28 sale, dispensing, distribution, or delivery of any
2 29 prescription drug to any patient in this state through an
2 30 internet site or by electronic mail unless all of the
2 31 following are met:

2 32 a. All internet sites and electronic mail used by the
2 33 pharmacy for purposes of sales or delivery of a
2 34 prescription-only drug are in compliance with all requirements
2 35 of federal law applicable to the site or electronic mail.

3 1 b. (1) The pharmacy that sells, dispenses, distributes,
3 2 or delivers the prescription-only drugs is in compliance with
3 3 all requirements of relevant state law.
3 4 (2) The pharmacy is properly licensed and regulated by the
3 5 board to operate a pharmacy pursuant to section 155A.13 or
3 6 155A.13A.

3 7 c. The pharmacist who fills the prescription drug order is
3 8 not in violation of subsection 4.

3 9 d. (1) The pharmacy is not in violation of subsection 6.
3 10 (2) The pharmacy is in compliance with an Iowa
3 11 prescription drug monitoring program if an Iowa prescription
3 12 drug monitoring program exists and the pharmacy is subject to
3 13 reporting or other requirements of the program.

3 14 3. A practitioner who writes a prescription drug order
3 15 through an internet site or electronic mail for a patient
3 16 physically located in this state must be licensed by the
3 17 applicable licensing authority and in compliance with all
3 18 applicable laws.

3 19 4. A pharmacist practicing within or outside this state
3 20 shall not fill a prescription drug order to dispense a
3 21 prescription drug to a patient if the pharmacist knows or
3 22 reasonably should have known under the circumstances that the
3 23 prescription drug order was issued under both of the
3 24 following:

3 25 a. Solely on the basis of an internet questionnaire, an
3 26 internet consultation, or a telephonic consultation.

3 27 b. Without a prior valid patient-practitioner
3 28 relationship.

3 29 5. An internet broker operating within or outside this
3 30 state may participate in the sale of a prescription drug in
3 31 this state only if the internet broker knows that the
3 32 pharmacist who dispenses the drug is not in violation of
3 33 subsection 4.

3 34 6. A pharmacy shall not sell, dispense, distribute,
3 35 deliver, or participate in the sale, dispensing, distribution,
4 1 or delivery of any prescription-only drug to a consumer in
4 2 this state if any part of the transaction was conducted
4 3 through an internet site unless the internet site displays in
4 4 a clear and conspicuous manner all of the following:

4 5 a. The name of the pharmacy.
4 6 b. The address of the licensed physical location of the
4 7 pharmacy.
4 8 c. The telephone number of the pharmacy.
4 9 d. The license number issued by the board to the pharmacy.
4 10 e. The certification issued by the national association of
4 11 boards of pharmacy identifying the pharmacy as a verified
4 12 internet pharmacy practice site's seal, the verified internet
4 13 pharmacy practice site's seal, and a link to the national
4 14 association of boards of pharmacy's verification site, except
4 15 that verified internet pharmacy practice sites certification
4 16 shall not be required of a pharmacy that utilizes an internet
4 17 site for the convenience of a patient to request a
4 18 prescription refill or to request or retrieve drug information
4 19 but requires that the filled prescription be delivered to the
4 20 patient at the licensed physical location of the pharmacy.
4 21 f. The internet site registration number issued by the
4 22 board.

4 23 7. A pharmacy that sells, dispenses, distributes,
4 24 delivers, prescribes, or participates in the sale, dispensing,
4 25 distribution, or delivery of any prescription drug to any
4 26 patient in this state, if the patient submitted the purchase

4 27 order for the prescription drug through an internet site or by
4 28 electronic mail, shall not disclaim, limit, or waive any
4 29 liability to which the pharmacy otherwise is subject under law
4 30 for the act or practice of selling, dispensing, distributing,
4 31 or delivering prescription drugs.

4 32 8. A disclaimer, limitation, or waiver in violation of
4 33 this section is void.

4 34 9. An attempt to make a disclaimer, limitation, or waiver
4 35 in violation of this section is a violation of this chapter.

5 1 10. For purposes of this section, the board shall adopt
5 2 rules in accordance with chapter 17A on matters pertaining to
5 3 internet site registration, application, forms, renewals,
5 4 fees, termination of registration, and any other relevant
5 5 matters.

5 6 Sec. 5. Section 155A.27, unnumbered paragraph 1, Code
5 7 2009, is amended to read as follows:

5 8 ~~Each To be valid, each~~ prescription drug order issued or
5 9 ~~filled dispensed~~ in this state ~~must be based on a prior valid~~
5 10 ~~patient=practitioner relationship, and:~~

5 11 Sec. 6. Section 155A.29, Code 2009, is amended by adding
5 12 the following new subsection:

5 13 NEW SUBSECTION. 4. An authorization to refill a
5 14 prescription drug order may be transmitted to a pharmacist by
5 15 a prescriber or the prescriber's agent through word of mouth,
5 16 note, telephone, facsimile, or other means of communication
5 17 initiated by or directed by the practitioner. The
5 18 transmission shall include the information required pursuant
5 19 to section 155A.27 and, if not transmitted directly by the
5 20 practitioner, shall identify by name and title the
5 21 practitioner's agent completing the transmission.

5 22 EXPLANATION

5 23 This bill establishes a registration program for pharmacy
5 24 support persons who may perform only routine clerical and
5 25 support functions. A pharmacy support person shall not
5 26 perform any professional duties or any technical or dispensing
5 27 duties.

5 28 The bill also establishes new requirements for the internet
5 29 sale of prescription drugs by pharmacies. In part, the bill
5 30 prohibits a pharmacist from filling a prescription drug order
5 31 from a provider if both of the following conditions are met:

5 32 1. The order is based solely on an internet questionnaire,
5 33 an internet consultation, or a telephonic consultation.

5 34 2. A prior valid patient=practitioner relationship does
5 35 not exist.

6 1 The bill requires internet pharmacies to display certain
6 2 information on their internet sites and requires them to
6 3 obtain certification as a verified internet pharmacy practice
6 4 site from the national association of boards of pharmacy. The
6 5 bill requires internet pharmacies to obtain an internet site
6 6 registration from the board and prevents internet pharmacies
6 7 from disclaiming, limiting, or waiving liability to which they
6 8 otherwise would be subject under the law.

6 9 The bill allows a prescriber or the prescriber's agent to
6 10 authorize the refill of a prescription by any means of
6 11 communication, including word of mouth.

6 12 The bill also amends Code chapter 4, adding a general
6 13 definition of the term "internet site".

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6 15 jr/rj/8.1