

House File 208 - Introduced

HOUSE FILE 208

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A BILL FOR

1 An Act relating to substance use disorder prevention and
2 treatment, including creating an excise tax on the gross
3 receipts of certain controlled substances sold at wholesale
4 and an opioid abuse prevention and treatment fund, making
5 appropriations, and providing penalties.

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

1 Section 1. NEW SECTION. 124.309 Prescriptions for opioids
2 — physician-patient contracts.

3 1. The boards of medicine, dentistry, and nursing shall
4 adopt rules requiring a practitioner to furnish, and a
5 practitioner and patient to sign, a contract regarding the
6 risks and responsibilities associated with opioid use prior to
7 a practitioner issuing a prescription for more than a seven-day
8 supply of an opioid to a patient and prior to issuing any
9 additional opioid prescriptions to the patient.

10 2. The form and content of a contract under this section
11 shall be determined by the board of medicine but shall be based
12 upon evidence regarding the responsible prescribing of opioids.

13 Sec. 2. NEW SECTION. 135.192 Opioid abuse prevention and
14 treatment fund.

15 1. An opioid abuse prevention and treatment fund is created
16 in the state treasury under the control of the department.
17 The fund is established to expand treatment for and access
18 to treatment for opioid use disorders and to assist opioid
19 drug abuse prevention and treatment programs in the state
20 including but not limited to medication-assisted treatment
21 programs that provide appropriate holistic services and
22 treatment programs licensed by the department, in accordance
23 with programs sponsored by community organizations, programs
24 that provide emergency responders with affordable access
25 to opioid antagonists, and programs that assist in paying
26 treatment costs for individuals who are ineligible for Medicaid
27 services or private insurance coverage. The fund shall also
28 provide support for the expansion of substance abuse and pain
29 management curricula at the university of Iowa college of
30 medicine, evidence-based public health research on nonnarcotic
31 pain treatment and management alternatives, and expanded mental
32 health and substance abuse education and training for emergency
33 medical care providers as defined in section 147A.1.

34 2. Distribution of moneys from the opioid abuse prevention
35 and treatment program shall be made to eligible applicants in

1 the following order of priority:

2 *a.* A public entity, including but not limited to a state,
3 county, or local community health clinic and federally
4 qualified health center, or a public health agency, as defined
5 in section 135D.2, that provides opioid use disorder treatment.

6 *b.* A nonpublic entity that, in addition to opioid use
7 disorder treatment services, provides required primary health
8 services as described in 42 U.S.C. §254b(b)(1)(A).

9 *c.* A nonpublic entity that provides opioid use disorder
10 treatment but does not provide required primary health services
11 as described in 42 U.S.C. §254b(b)(1)(A).

12 3. The fund shall consist of all moneys deposited in the
13 fund pursuant to section 423H.4 and any other moneys available
14 to, obtained, or accepted by the department for placement in
15 the fund. Moneys in the fund are not subject to section 8.33.
16 Notwithstanding section 12C.7, interest or earnings on moneys
17 in the fund shall be credited to the fund.

18 Sec. 3. NEW SECTION. 135.193 Opioid abuse prevention and
19 treatment workgroup.

20 1. An opioid abuse prevention and treatment workgroup shall
21 be established by the state board of health. The workgroup
22 shall be composed of nine members appointed by the governor
23 based on recommendations by the department, including the
24 following:

25 *a.* One physician licensed under chapter 148.

26 *b.* One pharmacist licensed under chapter 155A.

27 *c.* One social worker licensed under chapter 154C.

28 *d.* One advanced registered nurse practitioner licensed under
29 chapter 152.

30 *e.* One representative of a county board of health.

31 *f.* One representatives of a substance abuse treatment
32 program licensed under chapter 125.

33 *g.* One person who has been treated for and has recovered
34 from opioid abuse.

35 *h.* Two persons who are not licensed to practice medicine,

1 pharmacy, social work, or nursing who shall represent the
2 general public.

3 2. The workgroup shall do all of the following:

4 a. Promote meetings and programs for the discussion of
5 methods to reduce opioid abuse and disseminate information
6 in cooperation with any other department, agency, or other
7 governmental or nongovernmental entity on the prevention,
8 evaluation, care, treatment, and rehabilitation of persons
9 affected by opioid abuse.

10 b. Study and review current prevention, evaluation, care,
11 treatment, and rehabilitation programs and strategies and
12 recommend appropriate preparation, training, retraining, and
13 distribution of personnel and resources in the provision of
14 services to persons with opioid abuse issues through treatment
15 programs licensed in accordance with the administrative rules
16 of the department.

17 c. Make recommendations to the department to expend moneys
18 deposited in the opioid abuse prevention and treatment fund
19 created in section 135.192 to carry out the recommendations
20 of the workgroup in accordance with the purposes of section
21 135.192, subject to the approval of the department.

22 d. Meet at least quarterly.

23 e. Make recommendations regarding approval by the state
24 board of health of administrative rules for adoption by the
25 department pursuant to chapter 17A.

26 3. The department may receive gifts, grants, or donations
27 made for any of the purposes of the workgroup's duties and
28 disburse and administer them in accordance with their terms.

29 **Sec. 4. NEW SECTION. 135.194 Substance abuse treatment**
30 **programs.**

31 1. The general assembly declares that it is the public
32 policy of the state to increase the percentage of people
33 receiving treatment for substance use disorders from ten
34 percent to eighty percent and to ensure that all effective
35 evidence-based substance use disorder treatments are covered

1 by the authorization and payment policies of all public and
2 private payers.

3 2. The department, in consultation with the Iowa poison
4 control center and the Iowa health care collaborative, shall
5 develop addiction, addiction treatment, overdose, and overdose
6 death surveillance metrics, standards, and requirements for
7 data collected through county boards of health.

8 Sec. 5. NEW SECTION. 137.105A County boards of health —
9 opioid epidemic response.

10 Each county board, in cooperation with a mental health and
11 disability services region formed in accordance with section
12 331.389 and substance abuse programs licensed pursuant to
13 chapter 125, shall include opioid abuse and substance use
14 disorder treatment in each community health needs assessment
15 and each county health improvement plan shall include
16 provisions related to prevention, harm reduction, and treatment
17 associated with substance use disorders.

18 Sec. 6. NEW SECTION. 155A.28A Labeling and packaging of
19 opioids.

20 Beginning January 1, 2020, any packaging, including
21 unit dose packaging, of an opioid that is prescribed by a
22 practitioner or directly dispensed by a pharmacist and that
23 is not for immediate administration to an ultimate user shall
24 contain a label including information about the risks of opioid
25 use and abuse and the risks of addiction and overdose pursuant
26 to rules of the board.

27 Sec. 7. NEW SECTION. 272C.2D Continuing education minimum
28 requirements — emergency physicians.

29 The board of medicine shall adopt rules requiring emergency
30 physicians to receive training on mental illness and substance
31 use disorders as a condition of license renewal.

32 Sec. 8. Section 356.5, Code 2019, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 7. Ensure that each prisoner currently
35 receiving medication-assisted treatment for a substance use

1 disorder under the direction of a licensed health care provider
2 shall continue to receive such treatment while the prisoner is
3 confined in jail.

4 Sec. 9. NEW SECTION. 423H.1 Definitions.

5 1. For purposes of this chapter, unless the context
6 otherwise requires:

7 a. "*Gross receipts*" means the total revenues received from
8 the wholesale sale of schedule II controlled substances to
9 practitioners in this state.

10 b. "*Practitioner*" means the same as defined in section
11 124.101.

12 c. "*Schedule II controlled substance*" means a controlled
13 substance listed in the schedule provided in section 124.206.

14 d. "*Wholesaler*" means a person operating or maintaining,
15 either within or outside this state, a wholesale distribution
16 center, wholesale business, or any other business in which
17 prescription drugs or devices, medicinal chemicals, medicines,
18 or poisons are sold, dispensed, stocked, exposed, distributed
19 from, or offered for sale at wholesale in this state.

20 "*Wholesaler*" does not include those wholesalers who sell only
21 proprietary or over-the-counter medicines. "*Wholesaler*" also
22 does not include a commercial carrier that temporarily stores
23 prescription drugs or devices, medicinal chemicals, medicines,
24 or poisons while in transit.

25 2. All other words and phrases used in this chapter and
26 defined in section 423.1 have the meaning given them by section
27 423.1 for purposes of this chapter.

28 Sec. 10. NEW SECTION. 423H.2 Tax imposed.

29 A tax of five percent is imposed on the gross receipts of
30 a schedule II controlled substance sold at wholesale to a
31 practitioner in this state. The tax imposed under this section
32 shall be collected and paid over to the department by the
33 wholesaler.

34 Sec. 11. NEW SECTION. 423H.3 Administration by director.

35 1. The director of revenue shall administer the excise tax

1 on the gross receipts of schedule II controlled substances as
2 nearly as possible in conjunction with the administration of
3 the state sales and use tax law, except that portion of the law
4 that implements the streamlined sales and use tax agreement.
5 The director shall provide appropriate forms, or provide on the
6 regular state tax forms, for reporting tax liability pursuant
7 to this chapter.

8 2. The director may require all wholesalers subject to tax
9 liability under this chapter to register with the department.
10 The director may also require a tax permit applicable only to
11 this chapter for any wholesaler not collecting taxes under
12 chapter 423.

13 3. Section 422.25, subsection 4, sections 422.30, 422.67,
14 and 422.68, section 422.69, subsection 1, sections 422.70,
15 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection
16 1, and sections 423.23, 423.24, 423.25, 423.31 through
17 423.35, 423.37 through 423.42, and 423.47, consistent with
18 the provisions of this chapter, shall apply with respect to
19 the tax authorized under this chapter, in the same manner
20 and with the same effect as if the excise tax on the gross
21 receipts of schedule II controlled substances by a wholesaler
22 was a retail sales tax within the meaning of those provisions.
23 Notwithstanding this subsection, the director shall provide for
24 quarterly filing of returns and for other than quarterly filing
25 of returns both as prescribed in section 423.31. All taxes
26 collected under this chapter by a wholesaler are deemed to be
27 held in trust for the state of Iowa.

28 4. The director of revenue may adopt rules, not
29 inconsistent with this chapter, necessary and advisable for its
30 administration and enforcement.

31 **Sec. 12. NEW SECTION. 423H.4 Deposit of revenues.**

32 1. All moneys received and all refunds shall be deposited in
33 or withdrawn from the general fund of the state.

34 2. Subsequent to the deposit in the general fund of the
35 state, the department shall transfer the revenues collected

1 under this chapter to the opioid abuse prevention and treatment
2 fund created in section 135.192.

3 Sec. 13. NEW SECTION. 423H.5 Violation — enforcement.

4 1. A wholesaler who violates this chapter is guilty of a
5 fraudulent practice.

6 2. The director may designate employees to administer
7 and enforce the provisions of this chapter, including
8 the collection of taxes imposed by this chapter. In the
9 enforcement of this chapter, the director may request aid from
10 the attorney general, the special agents of the state, any
11 county attorney, or any peace officer.

12 Sec. 14. SUBSTANCE USE DISORDER TREATMENT — INSURANCE
13 COVERAGE. The insurance division of the department of commerce
14 shall prepare a comprehensive report on insurance coverage
15 and payment policies for services related to the treatment of
16 substance use disorders by commercial insurance companies and
17 self-funded plans, as well as data on current utilization and
18 expenditures associated with such benefit plans. The report
19 shall be submitted to the general assembly by January 1, 2020.

20 Sec. 15. OPIOIDS — USAGE — SUBSTANCE USE TREATMENT.

21 1. The department of administrative services shall, in
22 cooperation with any health insurance plans or health plan
23 administrators of benefits extended to state employees, create
24 a model benefit plan designed to incentivize or otherwise
25 promote the effective, evidence-based prescription and
26 use of opioids to members receiving benefits through state
27 plans, document the current use of benefits for substance
28 use disorders, identify gaps or unnecessary restrictions in
29 coverage, and expand access to evidence-based treatments and
30 therapies, including nonpharmacological treatments.

31 2. The department of human services and the Iowa
32 Medicaid enterprise shall, in cooperation with managed care
33 organizations, design benefit plans to incentivize or otherwise
34 promote the effective, evidence-based prescription and use
35 of opioids to members receiving benefits through managed

1 care organizations, document the current use of benefits
2 for substance use disorders, identify gaps or unnecessary
3 restrictions in coverage, and expand access to evidence-based
4 treatment and therapies, including nonpharmacological
5 treatments, by application for a Medicaid waiver if necessary.

6 Sec. 16. PROFESSIONAL LICENSING BOARDS — SUBSTANCE
7 USE TREATMENT PROGRAMS. Each professional licensing board
8 designated in section 147.13 shall consider the adoption of
9 a program modeled after the Iowa nurse assistance program
10 and the Iowa physician health program for the identification
11 and treatment of licensees who may be at risk for license
12 discipline due to a substance use disorder.

13 Sec. 17. SUBSTANCE USE DISORDERS — RECOVERY HIGH
14 SCHOOLS. The department of education shall, in collaboration
15 with the department of public health and the department
16 of human services, make recommendations regarding the
17 establishment of one or more recovery high schools in Iowa
18 designed for the education of students in recovery from
19 substance use disorders or dependency or co-occurring
20 disorders such as anxiety, depression, and attention deficit
21 hyperactivity disorder. Such schools shall meet state
22 requirements for awarding a secondary school diploma and
23 support students engaged in a program of recovery. The
24 department of education shall submit its recommendations to the
25 governor and the general assembly by November 1, 2019.

26 Sec. 18. OPIOID ABUSE PREVENTION AND TREATMENT FUND —
27 APPROPRIATION. There is appropriated from the opioid abuse
28 prevention and treatment fund created in section 135.192, as
29 enacted in this Act, to the department of public health for the
30 fiscal year beginning July 1, 2019, and ending June 30, 2020,
31 the following amounts, or so much thereof as is necessary, to
32 be used for the purposes designated:

33 1. For contracting with the Iowa health care collaborative
34 to develop and pilot protocols for the treatment of emergency
35 room patients experiencing opioid or heroin overdoses, only to

1 the extent that funding is matched on a dollar-for-dollar basis
2 from private or public sources secured by the Iowa health care
3 collaborative:

4 \$ 100,000

5 2. For the psychiatric residency programs involved
6 with coordinated, collaborative care at newly established,
7 community-based behavioral health treatment facilities offering
8 residential substance use disorder treatment for twenty-nine
9 days or more:

10 \$ 1,000,000

11 Sec. 19. OPIOID ABUSE PREVENTION AND TREATMENT FUND —
12 APPROPRIATION. There is appropriated from the opioid abuse
13 prevention and treatment fund created in section 135.192, as
14 enacted in this Act, to the state board of regents for the
15 fiscal year beginning July 1, 2019, and ending June 30, 2020,
16 the following amounts, or so much thereof as is necessary, to
17 be used for the purposes designated:

18 1. For the funding of research on medication-assisted
19 treatment for substance use disorders conducted at the college
20 of public health at the state university of Iowa to identify
21 variability in outcomes, demonstrate efficacy of treatment, and
22 refine evidence-based protocols:

23 \$ 500,000

24 2. For the funding of research and education conducted at
25 the Carver college of medicine at the state university of Iowa
26 for the nonnarcotic treatment of pain:

27 \$ 1,000,000

28 Sec. 20. IMPLEMENTATION OF ACT. Section 25B.2, subsection
29 3, shall not apply to this Act.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill relates to the treatment of substance use disorder
34 prevention and treatment, including creating an excise tax on
35 the gross receipts of certain controlled substances sold at

1 wholesale and an opioid abuse prevention and treatment fund,
2 makes appropriations, and provides penalties.

3 The bill directs the board of medicine to adopt rules
4 requiring practitioners to present, and practitioners
5 and patients to sign, a contract regarding the risks and
6 responsibilities associated with opioid use prior to a
7 practitioner's prescription of a course of treatment including
8 opioids to a patient lasting longer than seven days and
9 prior to issuing a second or subsequent prescription for an
10 opioid to the patient. The bill requires the department of
11 medicine to determine the form and content of the contract but
12 requires that the contract be based on evidence regarding the
13 responsible prescription of opioids.

14 The bill establishes an opioid abuse prevention and
15 treatment workgroup within the department of public health.
16 Under the bill, the membership of the workgroup includes one
17 physician, one pharmacist, one social worker, one advanced
18 registered nurse practitioner, one representative of a county
19 board of health, one representative of a substance abuse
20 treatment program licensed under Code chapter 125, one person
21 who has been treated for and has recovered from opioid abuse,
22 and two persons who are not licensed to practice medicine,
23 pharmacy, social work, or nursing who shall represent the
24 general public.

25 Under the bill, the workgroup is required to promote
26 meetings and programs for the discussion of methods to reduce
27 opioid abuse and disseminate information in cooperation
28 with any other department, agency, or other governmental
29 or nongovernmental entity on the prevention, evaluation,
30 care, treatment, and rehabilitation of persons affected by
31 opioid abuse. The bill also requires the workgroup to study
32 and review current prevention, evaluation, care, treatment,
33 and rehabilitation programs and strategies and recommend
34 appropriate preparation, training, retraining, and distribution
35 of personnel and resources in the provision of services to

1 persons with opioid abuse issues through treatment programs
2 licensed in accordance with the administrative rules of the
3 department.

4 The bill directs the workgroup to make recommendations to
5 the department to expend moneys deposited in the opioid abuse
6 prevention and treatment fund to carry out the recommendations
7 of the workgroup in accordance with the purposes of the fund.
8 The bill also directs the workgroup to make recommendations
9 to the state board of health to approve administrative rules
10 for adoption by the department relating to the workgroup's
11 recommendations.

12 The bill provides that it is the public policy of the
13 state of Iowa to increase the percentage of people receiving
14 treatment for substance use disorders from 10 percent to
15 80 percent and to ensure that all effective evidence-based
16 treatments for substance use disorder treatments are covered
17 by the authorization and payment policies of all public and
18 private payers. The bill directs the department of public
19 health, in consultation with the Iowa poison control center
20 and the Iowa health care collaborative, to develop addiction,
21 addiction treatment, overdose, and overdose death surveillance
22 metrics, standards, and requirements for data collected through
23 county boards of health.

24 The bill requires each county board of health, in
25 cooperation with the relevant mental health and disability
26 services region formed in accordance with Code section
27 331.389 and substance abuse programs licensed pursuant to Code
28 chapter 125, to include information regarding opioid abuse and
29 substance use disorder treatment in each community health needs
30 assessment, as well as in each health improvement plan when the
31 county board of health deems it appropriate.

32 The bill directs the board of pharmacy to adopt rules
33 requiring that packaging for certain opioids contain a label
34 including information regarding the dangers of opioid use and
35 abuse and the risks of addiction and overdose beginning January

1 1, 2020.

2 The bill directs the board of medicine to adopt rules
3 requiring emergency physicians to receive training on mental
4 illness and substance use disorders as a condition of license
5 renewal.

6 The bill requires the appropriate administrative officer
7 of each county jail to ensure that each prisoner currently
8 receiving medication-assisted treatment for a substance use
9 disorder under the direction of a licensed health care provider
10 continue to receive such treatment while confined in jail.

11 The bill imposes an excise tax of 5 percent on the gross
12 receipts of schedule II controlled substances sold at wholesale
13 to practitioners in the state. The tax shall be collected and
14 paid over to the department of revenue by the wholesaler. The
15 bill contains definitions for "gross receipts", "practitioner",
16 "schedule II controlled substance", and "wholesaler".

17 The bill requires the director of revenue to administer
18 the excise tax as nearly as possible in conjunction with the
19 administration of the state sales and use tax laws, and, to
20 that end, the bill incorporates by reference several Code
21 sections that relate to general tax administration and the
22 sales and use tax laws.

23 The bill requires excise tax revenues collected pursuant to
24 the bill to be deposited in the general fund of the state, then
25 transferred to the opioid abuse prevention and treatment fund
26 created in the bill. The fund is created in the state treasury
27 under the control of the department of public health. The fund
28 is established to expand treatment for and access to treatment
29 for opioid use disorders and to assist opioid abuse prevention
30 and treatment programs in the state, including but not limited
31 to programs described in the bill. The fund consists of moneys
32 deposited in the fund from the revenues of the excise tax, and
33 any other moneys obtained by the department for placement in
34 the fund. Moneys in the fund are not subject to Code section
35 8.33. Notwithstanding Code section 12C.7, interest or earnings

1 on moneys in the fund shall be credited to the fund.

2 The bill directs the insurance division of the department
3 of commerce to prepare a comprehensive report on insurance
4 coverage and payment policies for services related to the
5 treatment of substance use disorders by commercial insurance
6 companies and self-funded plans, as well as data on current
7 utilization and expenditures associated with such benefit
8 plans. The bill requires this report to be submitted to the
9 general assembly by March 1, 2020.

10 The bill directs the department of administrative
11 services, in cooperation with any health plans or health
12 plan administrators of benefits extended to state employees,
13 to create a model benefit plan designed to incentivize or
14 otherwise promote the effective, evidence-based prescription
15 and use of opioids to members receiving benefits through state
16 plans, document the current use of benefits for substance
17 use disorders, identify gaps or unnecessary restrictions in
18 coverage, and expand access to evidence-based treatments and
19 therapies, including nonpharmacological treatments.

20 The bill directs the department of human services and the
21 Iowa Medicaid enterprise, in cooperation with managed care
22 organizations, to design benefit plans to incentivize or
23 otherwise promote the effective, evidence-based prescription
24 and use of opioids to members receiving benefits through
25 managed care organizations, document the current use of
26 benefits for substance use disorders, identify gaps or
27 unnecessary restrictions in coverage, and expand access
28 to evidence-based treatment and therapies, including
29 nonpharmacological treatments, by application for a Medicaid
30 waiver if necessary.

31 The bill directs the department of education, in
32 collaboration with the department of public health and the
33 department of human services, to make recommendations to the
34 governor and the general assembly regarding the establishment
35 of recovery high schools for the education of students

1 recovering from substance abuse and related disorders. The
2 bill requires the department of education to submit its
3 recommendations by November 1, 2019.

4 The bill requires each professional licensing board
5 designated in Code section 147.13 to consider the adoption
6 of a program modeled after the Iowa nurse assistance program
7 and the Iowa physician health program for the identification
8 and treatment of licensees who may be at risk for license
9 discipline due to a substance use disorder.

10 The bill appropriates moneys from the opioid abuse
11 prevention and treatment fund to the department of public
12 health for contracting with the Iowa health care collaborative
13 to develop and pilot protocols for the treatment of emergency
14 room patients experiencing opioid or heroin overdoses
15 contingent on the Iowa health care collaborative receiving
16 dollar-for-dollar matching funding from private or public
17 sources and to support psychiatric residency programs at
18 behavioral health treatment facilities offering residential
19 substance use disorder treatment for 29 days or more. The
20 bill appropriates moneys from the opioid abuse prevention and
21 treatment fund to the state board of regents for FY 2019-2020
22 for the funding of research conducted at the college of public
23 health at the state university of Iowa for medication-assisted
24 treatment of substance use disorders to identify variability
25 in outcomes, demonstrate efficacy of treatment, and refine
26 evidence-based protocols, and for the funding of research and
27 education conducted at the Carver college of medicine at the
28 state university of Iowa for the nonnarcotic treatment of pain.

29 The bill may include a state mandate as defined in Code
30 section 25B.3. The bill makes inapplicable Code section 25B.2,
31 subsection 3, which would relieve a political subdivision from
32 complying with a state mandate if funding for the cost of
33 the state mandate is not provided or specified. Therefore,
34 political subdivisions are required to comply with any state
35 mandate included in the bill.