

## CHAPTER 96

## DRUGS, MEDICINES AND POISONS

S. F. 68

AN ACT to amend chapter one hundred fifty-five (155), Code 1954, relating to pharmacy and to provide for the development, establishment and enforcement of basic standards and requirements for the distribution of drugs, medicinal chemicals and poisons for human use only, and to provide for licensing of such distributors, and to provide penalties for violations.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Amend section one hundred fifty-five point three  
2 (155.3), Code 1954, by adding the following subsections:

3 3. The term "board" shall mean the board of pharmacy examiners  
4 established by chapter one hundred forty-seven (147), Code 1954.

5 4. The term "person" means any individual, firm, partnership, cor-  
6 poration or association.

7 5. The term "wholesaler" shall mean any person operating or  
8 maintaining a manufacturing plant, wholesale distribution center,  
9 wholesale business or any other business in which drugs, medicinal  
10 chemicals, medicines or poisons, are sold, manufactured, compounded,  
11 dispensed, stocked, exposed or offered for sale at wholesale to a re-  
12 tailer for resale in this state. The term "wholesaler" shall not in-  
13 clude those wholesalers who sell only the products defined in sub-  
14 section seven (7) of section one (1) of this Act.

15 6. The term "wholesale salesman" means any individual who takes  
16 an order from a retailer in this state for, or makes delivery of, any  
17 drug, medicinal chemical, medicines or poisons, to a retailer in this  
18 state for resale. The term "wholesale salesman" shall not apply to  
19 those salesmen who sell only the products defined in subsection seven  
20 (7) of section one (1) of this Act.

21 7. For the purpose of this Act the term "proprietary medicines"  
22 or "domestic remedies" means and includes completely compounded  
23 packaged drugs, medicines and nonbulk chemicals which are not in  
24 themselves poisonous or in violation of the law relative to intoxi-  
25 cating liquors which are sold, offered, promoted and advertised by  
26 the manufacturer or primary distributor directly to the general  
27 public under a trademark, trade name, or other trade symbol pri-  
28 vately owned, whether or not registered in the United States Patent  
29 Office, and the labeling of which bears (1) a statement specifying  
30 affections, symptoms or purposes for which the product is recom-  
31 mended, (2) adequate directions for use and such cautions as may be  
32 necessary for the protection of users, (3) an accurate statement of  
33 the quantity of the contents in terms of weight, measure or numer-  
34 ical count, (4) a statement of the active ingredients, and (5) the  
35 name and address of the manufacturer or primary distributor:  
36 Provided, however, this definition shall not apply to the sale, or  
37 offering for sale, of any drug for use by man which is only adver-  
38 tised or promoted professionally to licensed physicians, dentists or  
39 veterinarians by the manufacturer or primary distributor, or the  
40 label of which bears the statement "Caution: Federal law prohibits  
41 dispensing without prescription", or which sale is by law limited to  
42 dispensing by prescription.

43 8. The provisions of this Act shall not apply to persons selling,

44 offering or exposing for sale, the preparations referred to in sub-  
45 sections two (2), three (3) and four (4) of section one hundred  
46 fifty-five point two (155.2), Code 1954, or persons licensed to prac-  
47 tice veterinary medicine under the provisions of chapter one hundred  
48 sixty-nine (169), Code 1954, who dispense or sell veterinary drugs,  
49 or medicines for animal use only, or the holder of an itinerant ven-  
50 dor's license as defined in chapter two hundred three (203), Code  
51 1954, which persons shall not be required to have a license under  
52 this chapter while operating under the provisions of subsections two  
53 (2) three (3) or four (4) of section one hundred fifty-five point  
54 two (155.2), Code 1954, or licensed under the provisions of chapter  
55 one hundred sixty-nine (169), Code 1954, or chapter two hundred  
56 three (203), Code 1954, or to hospitals licensed under chapter one  
57 hundred thirty-five B (135B), Code 1954, or to persons licensed  
58 under chapters one hundred forty-eight (148) or one hundred fifty  
59 (150) or one hundred fifty-three (153), Code 1954.

1 SEC. 2. Amend chapter one hundred fifty-five (155), Code 1954,  
2 by adding the following sections:

3 1. No person shall establish, conduct or maintain a pharmacy in  
4 this state without a license. This license shall be identified as a retail  
5 pharmacy license.

6 2. No person shall establish, conduct or maintain a wholesale busi-  
7 ness as defined in this chapter without a license. This license shall be  
8 identified as a wholesale drug license.

9 3. Licenses shall be obtained from the board for each and every place  
10 of business. Applications shall be upon such forms and shall contain  
11 such information as the board may reasonably require. Each applica-  
12 tion for license shall be made by owner to the secretary of the board,  
13 accompanied by the license fee, which shall be paid over into the state  
14 treasury and credited to the general fund if the license is issued. The  
15 license fee for an original application for a retail pharmacy license or a  
16 wholesale drug license, shall be twenty-five dollars and the annual re-  
17 newal license fee shall be fifteen dollars. These licenses shall be due  
18 January 1, 1958, and annually on the first day of each following Jan-  
19 uary. The board shall issue a license upon receipt of an application  
20 accompanied by the license fee and after approval thereof by the board.

21 The application for a retail pharmacy license shall show the own-  
22 er's name and the name or names of the registered pharmacists in  
23 the pharmacy and signed by the owner and each pharmacist. Every  
24 registered pharmacist shall immediately notify the board of any  
25 change of his address or employment.

26 Each license issued under this chapter unless sooner suspended or  
27 revoked, shall be renewable annually, on January 1, of each year  
28 upon payment of the annual license fee. Each license shall be issued  
29 only for the premises and persons named in the application and shall  
30 not be transferable or assignable. The board shall have the author-  
31 ity to deny, suspend or revoke a license in any case where it finds  
32 that there has been a substantial failure to comply with the provi-  
33 sions of this chapter or the regulations promulgated hereunder, or  
34 the violation thereof, and in addition the board shall have the power  
35 to deny, suspend or revoke a license, when the applicant or licensee,  
36 or any employee, providing the offense is committed on licensed

37 premises or is in the conduct of the business licensed, is guilty of  
38 any of the following facts or offenses:

39 *a.* Fraud in procuring a license.

40 *b.* Conviction of an offense, or where a penalty or fine has been  
41 invoked, for violation of chapter two hundred three (203), chapter  
42 two hundred three A (203A), chapter one hundred forty-seven  
43 (147), chapter two hundred four (204), Code 1954, or the Federal  
44 Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a con-  
45 viction following a plea of *nolo contendere*, is deemed to be a convic-  
46 tion within the meaning of this section.

47 *c.* Distributing on the premises of intoxicating liquors or drugs  
48 for any other than lawful purposes.

49 *d.* Willful or repeated violations of the title on "Public Health"  
50 Code 1954 or the rules of the department of health.

51 *e.* Use of untrue or misleading statements, or untrue or mislead-  
52 ing advertising, pertaining to the products which they are licensed  
53 to sell, or pertaining to the type of license they hold.

54 *f.* Substitution of a drug, substance, or brand other than the drug,  
55 substance or brand ordered in the prescription of a physician, dentist  
56 or veterinarian licensed by law.

57 *g.* Conviction of a crime involving turpitude. A plea or verdict of  
58 guilty, or a conviction following a plea of *nolo contendere*, is deemed  
59 to be a conviction within the meaning of this section.

60 *h.* Violations of the provisions of this act and chapter one hundred  
61 fifty-five (155), Code 1954.

62 Such denial, suspension or revocation shall be effected by mailing  
63 to the applicant or licensee by registered mail, or by personal serv-  
64 ice of, a notice setting forth the particular reasons for such action.  
65 Such denial, suspension or revocation shall become effective thirty  
66 days after the mailing or service thereof, unless the applicant or  
67 licensee, within such thirty-day period shall give written notice to  
68 the board requesting a hearing in which case the notice shall be  
69 deemed to be suspended. If a hearing has been requested, the appli-  
70 cant or licensee shall be given an opportunity for a prompt and fair  
71 hearing before the board. At any time at or prior to the hearing the  
72 board may rescind the notice of denial, suspension or revocation  
73 upon being satisfied that the reasons for denial, suspension or revo-  
74 cation have been or will be removed. On the basis of any such hear-  
75 ing, or upon default of the applicant or licensee, the determination  
76 involved in the notice may be affirmed, modified or set aside by the  
77 board. A copy of such decisions, setting forth the findings of facts  
78 and the particular reasons for the decision shall be sent by registered  
79 mail, or served, unless the applicant or licensee, within such thirty  
80 days, appeals the decision to the district court.

81 The procedure governing hearings authorized by this section shall  
82 be in accordance with rules promulgated by said board. A full and  
83 complete record shall be kept of all proceedings, and all testimony  
84 shall be reported but need not be transcribed unless the decision is  
85 appealed to the court. A copy or copies of the transcript may be  
86 obtained by the party or parties involved in the controversy on pay-  
87 ment of the cost of preparing such copy or copies. Witnesses may  
88 be subpoenaed by either party and shall be allowed fees as prescribed  
89 by law in courts of record in criminal cases.

90 4. Any applicant or licensee who is dissatisfied with the decision  
91 of the board as a result of the hearing provided herein may, within  
92 thirty days after the mailing or service of notice of the decision as  
93 provided in said section, file a notice of appeal in the district court  
94 of the county in which the licensee is located and serve a copy of said  
95 notice of appeal upon said board. Thereupon the board shall within  
96 thirty days certify and file with the court a copy of the record and  
97 decision, including the transcript of the hearings upon which the  
98 decision was based. The trial before the court shall be an equity  
99 action and legal evidence pertaining to the matter of whether or not  
100 such permit shall be denied, suspended or revoked as the case may  
101 be, may be submitted including new or additional evidence not sub-  
102 mitted to the board, and the court shall have the power to affirm,  
103 modify or reverse the decision of the board. Pending final disposi-  
104 tion of the matter the status quo of the applicant or licensee shall  
105 be preserved.

106 5. The following sanitary regulations shall be complied with in  
107 every retail pharmacy licensed under this chapter:

108 *a.* The floors, walls, ceilings, woodwork, windows, utensils, ma-  
109 chinery and other equipment shall be kept in a thoroughly clean con-  
110 dition.

111 *b.* All parts of the interior of the premises shall be at all times  
112 adequately protected from dirt and contamination from any source.

113 *c.* Dirt, refuse and waste products subject to decomposition or  
114 fermentation shall be removed daily.

115 *d.* Clothing of all persons shall be kept clean. No person infected  
116 with any communicable disease as defined in chapter one hundred  
117 thirty-nine (139), Code 1954, shall work in any establishment.

118 *e.* All apparatus and equipment shall be kept in a thoroughly clean  
119 condition.

120 6. The prescription department of a retail pharmacy shall contain  
121 the following:

122 *a.* The latest or current edition of the United States Pharmaco-  
123 poeia and National Formulary and any supplement thereto.

124 *b.* A prescription balance sensitive to one-fourth ( $\frac{1}{4}$ ) grain.

125 *c.* The necessary instruments and apparatus to properly compound  
126 and dispense drugs and medicines.

127 7. The board shall adopt, amend, promulgate and enforce such  
128 reasonable rules, regulations and standards as may be designed to  
129 accomplish the purposes of this chapter, and as may be necessary  
130 for the provisions set forth herein.

131 8. No prescription-legend drug or medicine, which contains the  
132 legend: "Caution: Federal law prohibits dispensing without pre-  
133 scription", or which drug or medicine can only be dispensed upon a  
134 prescription according to law, may be sold at wholesale or brokerage  
135 for resale to other than licensed pharmacies.

136 9. No wholesaler shall sell or distribute, nor shall any wholesale  
137 salesman take orders for or deliver any drug, or medicine, which con-  
138 tains the legend caution: "Caution: Federal law prohibits dispensing  
139 without prescription", or where the dispensing of said drug or medi-  
140 cine is limited to prescriptions by law, to any retailer in this state  
141 for the purpose of resale unless such retailer is licensed as a phar-  
142 macy as provided in this chapter to keep for sale and to sell such

143 drugs or medicine at retail.

144 10. Sections eight (8) and nine (9) of this act do not apply to  
145 sales by wholesalers of drugs and medicines to licensed physicians,  
146 dentists or veterinarians.

147 11. Nothing contained in this act shall be construed to prevent the  
148 sale of drugs, medicines, medicinal chemicals, poisons, proprietary  
149 medicines or domestic remedies at wholesale to a licensed wholesaler,  
150 or to the state department of health, or to the board of pharmacy  
151 examiners.

152 12. The board shall make or cause to be made such inspections of  
153 pharmacies and wholesalers as may be reasonably necessary to ac-  
154 complish the purposes of this act.

155 13. Anything in this act to the contrary notwithstanding, persons  
156 or places of business, including but not limited to manufacturers,  
157 wholesalers and retailers who sell, offer or expose for sale, drugs,  
158 medicines, medicinal chemicals, nonbulk chemicals, paints and/or  
159 lacquer products, mixtures of substances, biologics, commercial  
160 feeds, stock tonics or any other substance or substances or propri-  
161 etary medicines of any kind to be used for the cure, mitigation or  
162 prevention of disease of animals or fowl and so labeled or who sell,  
163 offer or expose for sale any preparation of any nature for any agri-  
164 cultural use and so labeled, including but not limited to, insecticides,  
165 fungicides, herbicides, rodenticides, pesticides, chemicals and poisons,  
166 shall be exempt from both the provisions of this act and chapter one  
167 hundred fifty-five (155), Code 1954.

168 14. Any person found in possession of a drug or medicine limited  
169 by law to dispensation by a prescription, unless such drug or medicine  
170 was so lawfully dispensed, shall be deemed guilty of violating the  
171 provisions of this section, and upon conviction thereof, shall be fined  
172 not more than one thousand (\$1,000) dollars or be imprisoned in  
173 the county jail for not more than one (1) year, or both. This section  
174 shall not apply to a licensed pharmacy, licensed wholesaler, physi-  
175 cian, veterinarian, dentist, or nurse acting under the direction of a  
176 physician, nor to a common carrier or messenger when transporting  
177 such drug or medicine in the same unbroken package in which the  
178 drug or medicine was delivered to him for transportation.

179 15. Any person violating any of the provisions of this act or of  
180 chapter one hundred fifty-five (155), Code 1954, or any chapter per-  
181 taining to or affecting the practice of pharmacy for which a specific  
182 penalty is not otherwise provided, shall be deemed guilty of a mis-  
183 demeanor, and upon conviction thereof, shall be fined not more than  
184 five hundred (\$500) dollars or shall be imprisoned in the county jail  
185 for not less than thirty (30) days, or both.

186 16. Notwithstanding the existence or pursuit of any other remedy,  
187 the board may, in the manner provided by law maintain an action in  
188 the name of the state for injunction or other process against any  
189 person to restrain or prevent the establishment, conduct, manage-  
190 ment or operation of a retail pharmacy or wholesaler, without license,  
191 or to prevent the violation of the provisions of chapter one hundred  
192 fifty-five (155), Code 1954, and as amended by this act. Upon request  
193 of the board, the attorney general shall institute the proper proceed-  
194 ings and the county attorney, at the request of the attorney general,  
195 shall appear and prosecute such action when brought in his county.

196 17. If any provision of this act or the application thereof to any  
 197 person or circumstance shall be invalid, such invalidity shall not  
 198 affect the provisions or application of this act which can be given  
 199 effect without the invalid provisions or application and to this end  
 200 the provisions of the act are declared severable.

1 SEC. 3. Section one hundred forty-seven point ninety-seven  
 2 (147.97), Code 1954, is hereby repealed.

1 SEC. 4. This act shall become effective January 1, 1958.

Approved February 27, 1957.

## CHAPTER 97

### ANIMAL VACCINATION CERTIFICATES

#### H. F. 12

AN ACT to prohibit the alteration of any certificate of vaccination of animals.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred sixty-three point twenty-five  
 2 (163.25), Code 1954, is hereby amended by inserting after the word  
 3 "veterinarian" in line six (6) thereof the following: "or altering any  
 4 certificate of vaccination by one authorized to vaccinate animals".

Approved April 5, 1957.

## CHAPTER 98

### BANG'S DISEASE

#### S. F. 65

AN ACT to amend chapter one hundred sixty-four (164), Code 1954, relating to Bang's disease.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred sixty-four point seventeen  
 2 (164.17), Code 1954, is hereby amended by adding thereto the follow-  
 3 ing:  
 4 "Whenever petitions signed by seventy-five percent of the resident  
 5 owners of breeding cattle residing in a county representing seventy-  
 6 five percent or more of the breeding cattle therein owned by residents  
 7 of that area, as disclosed by the last assessment rolls of such area,  
 8 shall be presented to the department asking that all breeding cattle  
 9 herds in said county be tested for brucellosis, the department is hereby  
 10 authorized to make such tests without expense to the owners, to the  
 11 extent of the funds available therefor. Each of the petitions shall be  
 12 upon forms prepared by the department which forms shall include a  
 13 space for a statement of the number of breeding cattle owned by each  
 14 signer. The circulator thereof shall make a statement under oath on  
 15 each petition that he is the person who circulated the petition, that