

2. A new trustee to whom the trust property is to be transferred shall be qualified, willing, and able to administer the trust or trust property under the terms of the trust.

3. If the trust or any portion of the trust property is transferred to another jurisdiction and if approval of the transfer by the other court is required under the law of the other jurisdiction, the proper court in the other jurisdiction must have approved the transfer in order for the transfer to be effective.

4. If a transfer is ordered, the court may direct the manner of transfer and impose terms and conditions as may be just, including a requirement for the substitution of a successor trustee in any pending litigation in this state. A delivery of property in accordance with the order of the court is a full discharge of the trustee with respect to all property specified in the order.

5. If the court grants a petition to transfer a trust or trust property to this state, the court shall require the trustee to give a bond, if necessary under the law of the other jurisdiction or of this state, and may require bond as provided in section 633.4102.

Sec. 22. Section 633.6301, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Notice to a person who may represent and bind another person under this chapter has the same effect as if notice were given directly to the person represented.

NEW SUBSECTION. 5. The consent of a person who may represent and bind another person under this chapter is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

Sec. 23. NEW SECTION. 633.7101 DIVISION PREVAILS.

Notwithstanding any Code provision to the contrary, the provisions of this Division XX shall prevail over any other applicable Code provision.

Approved April 11, 2002

CHAPTER 1108

PUBLIC HEALTH REGULATION — MISCELLANEOUS PROVISIONS

H.F. 2547

AN ACT relating to certain programs and public health issues under the purview of the Iowa department of public health, and providing a penalty.

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

Section 1. Section 124.210, subsection 3, Code 2001, is amended by adding the following new paragraph o and relettering the subsequent paragraphs:

NEW PARAGRAPH. o. Dichloralphenazone.

Sec. 2. Section 124B.2, subsection 1, paragraph o, Code 2001, is amended to read as follows:

o. ~~Insosafrole~~ Isosafrole.

Sec. 3. Section 124B.2, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. w. Gamma-Butyrolactone (also known as GBL; Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; or gamma-hydroxy-butyric acid lactone).

Sec. 4. Section 125.13, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~Three~~ Four types of licenses may be issued by the department. A renewable license may be issued for one, ~~or two, or three~~ years. ~~Treatment programs~~ A treatment program applying for ~~their~~ its initial license may be issued a license for two hundred seventy days. A license issued for two hundred seventy days shall not be renewed or extended.

Sec. 5. Section 125.13, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. A hospital substance abuse treatment program that is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the commission. All survey reports for the hospital substance abuse treatment program from the accrediting or licensing body shall be sent to the department.

Sec. 6. Section 125.14, Code 2001, is amended to read as follows:

125.14 LICENSES — RENEWAL — FEES.

The commission shall meet to consider all cases involving initial issuance, and renewal, denial, suspension, or revocation of a license. The department shall issue a license to an applicant whom the commission determines meets the licensing requirements of this chapter. Licenses shall expire no later than ~~two~~ three years from the date of issuance and shall be renewed upon timely application made in the same manner as for initial issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal of programs contracting with the department for provision of treatment services. A fee may be charged to other licensees.

Sec. 7. Section 135.11, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. Establish, publish, and enforce rules which require companies, corporations, and other entities to obtain a permit from the department prior to scattering cremated human remains.

Sec. 8. Section 135.24, Code Supplement 2001, is amended to read as follows:

135.24 VOLUNTEER HEALTH CARE PROVIDER PROGRAM ESTABLISHED — IMMUNITY FROM CIVIL LIABILITY.

1. The director shall establish within the department a program to provide to eligible hospitals, clinics, or other health care facilities, health care referral programs, or charitable organizations, free medical, ~~and dental, and chiropractic~~ services given on a voluntary basis by health care providers. A participating health care provider shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, or other health care facilities, health care referral programs, or charitable organizations.

2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer health care provider program which shall include the following:

a. Procedures for registration of health care providers deemed qualified by the board of medical examiners, the board of physician assistant examiners, the board of dental examiners, ~~and the board of nursing, and the board of chiropractic examiners.~~

b. Criteria for and identification of hospitals, clinics, or other health care facilities, health care referral programs, or charitable organizations, eligible to participate in the provision of free medical, ~~or dental, or chiropractic~~ services through the volunteer health care provider program. A health care facility, a health care referral program, a charitable organization, or a health care provider participating in the program shall not bill or charge a patient for any health care provider service provided under the volunteer health care provider program.

c. Identification of the ~~medical~~ services to be provided under the program. The ~~medical~~ ser-

vices provided may include, but shall not be limited to, obstetrical and gynecological medical services, and psychiatric services provided by a physician licensed under chapter 148, 150, or 150A, or services provided under chapter 151.

3. A health care provider providing free care under this section shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21, provided that the health care provider has done all of the following:

a. Registered with the department pursuant to subsection 1.
b. Provided medical, or dental, or chiropractic services through a hospital, clinic, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.

4. For the purposes of this section, "charitable organization" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of chiropractic, dental, or medical or dental services to children and to serve as a funding mechanism for provision of chiropractic, dental, or medical or dental services, including but not limited to immunizations, to children in this state.

5. For the purposes of this section, "health care provider" means a physician licensed under chapter 148, 150, or 150A, or 151, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, a registered nurse, or a dentist, dental hygienist, or dental assistant registered or licensed to practice under chapter 153.

Sec. 9. Section 135.104, subsection 3, Code 2001, is amended to read as follows:

3. A screening program for children, with emphasis on children less than ~~five~~ six years of age.

Sec. 10. Section 136C.4, subsection 1, Code 2001, is amended to read as follows:

1. It is unlawful to operate or use radiation machines or radioactive material in violation of this chapter or of any rule adopted pursuant to this chapter. Persons convicted of violating a provision of this chapter are guilty of a ~~simple~~ serious misdemeanor.

Sec. 11. Section 144.26, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The department shall establish by rule procedures for making a finding of presumption of death when no body can be found. The department shall also provide by rule the responsibility for completing and signing the medical certification of cause of death in such circumstances. The presumptive death certificate shall be in a form prescribed by the state registrar and filed in the county where the death was presumed to occur.

b. The division shall provide for the correction, substitution, or removal of a presumptive death certificate when the body of the person is later found, additional facts are discovered, or the person is discovered to be alive.

Sec. 12. Section 147.10, Code 2001, is amended to read as follows:

147.10 RENEWAL.

Every license to practice a profession shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without examination. Application for renewal shall be made in writing to the department accompanied by the required fee at least thirty days prior to the expiration of such license. Every renewal shall be displayed in connection with the original license. The department shall notify each licensee ~~by mail~~ prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

Sec. 13. Section 147.107, subsection 2, unnumbered paragraphs 1 and 2, Code Supplement 2001, are amended to read as follows:

A pharmacist, physician, dentist, or podiatric physician who dispenses prescription drugs,

including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the boards of pharmacy, medicine, dentistry, and podiatry for their respective licensees.

A dentist, physician, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall ~~annually~~ register the fact that they dispense prescription drugs with the practitioner's respective examining board at least biennially. ~~A physician doing so shall register biennially.~~

Sec. 14. Section 148B.5, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 15. NEW SECTION. 153.19 TEMPORARY PERMIT — FEES.

1. The board may, in its discretion, issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene in a specific location or locations and for a specified period of time if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the permit, which shall be substantially equivalent to those required for licensure under this chapter. The board shall determine in each instance those eligible for this permit, whether or not examinations shall be given, and the type of examinations. None of the requirements for regular licensure under this chapter are mandatory for a temporary permit except as specifically designated by the board. The issuance of a temporary permit shall not in any way indicate that the permit holder is necessarily eligible for regular licensure, nor is the board in any way obligated to so license the person.

2. A temporary permit shall be issued for a period determined by the board and may be renewed at the discretion of the board. The fee for a temporary permit and the fee for renewal shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the permits. The board may revoke a temporary permit at any time, without a hearing, for reasons deemed sufficient by the board.

3. If the board revokes a temporary permit, it shall promptly notify the permit holder by registered mail, at the last known address of the permit holder, and the temporary permit shall be revoked and of no further force and effect three days after the giving of the notice to the permit holder.

Sec. 16. Section 153.21, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

153.21 LICENSE BY CREDENTIALS.

The board may issue a license under this chapter without examination to an applicant who furnishes satisfactory proof that the applicant holds a license from a similar dental board under equal or substantially equal requirements to those of this state, and who for three consecutive years immediately prior to the filing of the application in this state has been in a legal practice of dentistry or dental hygiene in such other state, territory, or district of the United States, and who furnishes such other evidence as to the applicant's qualifications and lawful practice as the board may require.

Sec. 17. Section 153.22, Code 2001, is amended to read as follows:

153.22 RESIDENT ~~DENTIST~~ LICENSE.

~~Any A dentist, or dental hygienist who is a graduate of an accredited dental school and is serving only as a resident, intern, or graduate student dentist and who is not licensed to practice dentistry in this state, shall be~~ is required to obtain from the board of dentistry a temporary or special license to practice as a resident, intern, or graduate ~~dentist~~ student. The license shall

be designated "Resident Dentist License" and shall authorize the licensee to serve as a resident, intern, or graduate student only, under the supervision of a licensed practitioner of dentistry, in an institution approved for this purpose by the board. Such license shall be valid for one year and may be renewed at the discretion of the board. The fee for this a resident license and the annual renewal fee shall be set by the board based upon the cost of issuance of the license. The board shall determine in each instance those eligible for this a resident license, whether or not examinations shall be given, and the type of examination. No None of the requirements of the law pertaining to for regular permanent licensure shall be are mandatory for this resident licensure except as specifically designated by the board. The granting issuance of a resident dentist's license does shall not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor is the board in any way obligated to so license such individual. The board may revoke said a resident license at any time it shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the board.

Sec. 18. Section 153.31, Code 2001, is amended to read as follows:

153.31 FALSIFICATION IN APPLICATION FOR RENEWAL.

A license to practice either dentistry or dental hygiene, or registration as a dental assistant, shall be revoked or suspended in the manner and upon the grounds elsewhere provided in this chapter, and also when the certificate accompanying the application of such licensee or registrant for renewal of license or registration filed with the board is not in all material respects true.

Sec. 19. Section 153.33, subsections 1 and 2, Code 2001, are amended to read as follows:

1. To initiate investigations of and conduct hearings on all matters or complaints relating to the practice of dentistry, or dental hygiene, or dental assisting or pertaining to the enforcement of any provision of this chapter, to provide for mediation of disputes between licensees or registrants and their patients when specifically recommended by the board, to revoke or suspend licenses or registrations, or the renewal thereof, issued under this or any prior chapter, to provide for restitution to patients, and to otherwise discipline licensees and registrants.

Subsequent to an investigation by the board, the board may appoint a disinterested third party to mediate disputes between licensees or registrants and patients. Referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant.

2. To appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 19A. Investigators authorized by the board of dental examiners have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 20. Section 153.33, subsection 5, paragraph f, Code 2001, is amended to read as follows:

f. If the licensee or registrant pleads guilty, or after hearing shall be found guilty by the board of any of the charges made, it may suspend for a limited period or revoke the license or registration, and the last renewal thereof, and shall enter the order on its records and notify the accused of the revocation or suspension of the person's license or registration, as the case may be, who shall thereupon forthwith surrender that license or registration to the board. Any such person whose license or registration has been so revoked or suspended shall not thereafter and while such revocation or suspension is in force and effect practice dentistry, or dental hygiene, or dental assisting within this state.

Sec. 21. Section 153.34, Code 2001, is amended to read as follows:

153.34 DISCIPLINE.

The board may issue an order to discipline a licensed dentist or dental hygienist, or regis-

~~tered dental assistant~~, for any of the grounds set forth in this chapter, chapter 272C, or Title IV. Notwithstanding section 272C.3, licensee ~~or registrant~~ discipline may include a civil penalty not to exceed ten thousand dollars. Pursuant to this section, the board may discipline a licensee ~~or registrant~~ for any of the following reasons:

1. For fraud or deceit in procuring the license ~~or registration~~ or the renewal thereof to practice dentistry, ~~or dental hygiene, or dental assisting~~.
2. For being guilty of willful and gross malpractice or willful and gross neglect in the practice of dentistry, ~~or dental hygiene, or dental assisting~~.
3. For fraud in representation as to skill or ability.
4. For willful or repeated violations of this chapter, this subtitle, or the rules of the state board of dentistry.
5. For obtaining any fee by fraud or misrepresentation.
6. For having failed to pay license ~~or registration~~ fees as provided herein.
7. For gross immorality or dishonorable or unprofessional conduct in the practice of dentistry, ~~or dental hygiene, or dental assisting~~.
8. ~~For the use of the name "clinic", "institute", or other title of similar import that may suggest a public or semipublic activity to designate what is in fact an individual or group private practice.~~
9. ~~8.~~ For failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, ~~or dental hygiene, or dental assisting~~.
10. ~~9.~~ For the conviction of a felony in the courts of this state or another state, territory, or country. Conviction as used in this subsection includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
11. ~~10.~~ For a violation of a law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which law relates to the practice of dentistry, ~~or dental hygiene, or dental assisting~~. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
12. ~~11.~~ The revocation or suspension of a license ~~or registration~~ to practice dentistry, ~~or dental hygiene, or dental assisting~~ or other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.
13. ~~12.~~ Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dentistry, ~~or dental hygiene, or dental assisting~~.
14. ~~13.~~ For an adjudication of mental incompetence by a court of competent jurisdiction. Such adjudication shall automatically suspend a license ~~or registration~~ for the duration of the license ~~or registration~~ unless the board orders otherwise.
15. ~~14.~~ Inability to practice dentistry, ~~or dental hygiene, or dental assisting~~ with reasonable skill and safety by reason of illness, drunkenness, or habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials or as a result of a mental or physical condition. At reasonable intervals following suspension or revocation under this subsection, a dentist, ~~or a dental hygienist, or dental assistant~~ shall be afforded an opportunity to demonstrate that the dentist, ~~or the dental hygienist, or dental assistant~~ can resume the competent practice of dentistry, ~~or dental hygiene, or dental assisting~~ with reasonable skill and safety to patients.
16. ~~15.~~ For being a party to or assisting in any violation of any provision of this chapter.

Sec. 22. Section 153.37, Code 2001, is amended to read as follows:

153.37 DENTAL COLLEGE AND DENTAL HYGIENE PROGRAM FACULTY PERMITS.

The state board of dental examiners may issue ~~to members of the faculty of the college of~~

~~dentistry~~ a faculty permit entitling the holder to practice dentistry or dental hygiene within the ~~a~~ college of dentistry or a dental hygiene program and affiliated teaching facilities as an adjunct to the faculty ~~members'~~ member's teaching ~~positions~~ position, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the state board of dental examiners those bona fide members of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the state board of dental examiners for a permit. The permit shall ~~expire on the first day of July next following the date of issuance~~ be for a period determined by the board and may be renewed at the discretion of the state board of dental examiners, ~~be renewed on a yearly basis.~~ The fee for the faculty permit and the renewal shall be set by the state board of dental examiners based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty ~~of the college of dentistry~~ and shall subject the holder to all provisions of this chapter.

Sec. 23. Section 153.39, subsection 3, Code 2001, is amended to read as follows:

3. Individuals employed as a dental assistant as of July 1, 2001, shall be registered with the board and receive a certificate of registration, and individuals employed as a dental assistant after July 1, 2001, shall have a ~~sixty-day~~ six-month period following their first date of employment after July 1, 2001, to comply with the provisions of subsection 1.

Sec. 24. Section 155A.3, subsection 31, Code 2001, is amended to read as follows:

31. "Prescription drug order" means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent who communicates the practitioner's instructions, ~~to a pharmacist~~ for a prescription drug or device to be dispensed.

Sec. 25. Section 155A.33, Code Supplement 2001, is amended to read as follows:

155A.33 DELEGATION OF TECHNICAL FUNCTIONS.

A pharmacist may delegate technical dispensing functions to pharmacy technicians, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient's prescription prior to the delivery of the prescription to the patient or the patient's representative. However, the physical presence requirement does not apply when a pharmacist is utilizing an automated dispensing system. When using an automated dispensing system, the pharmacist shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist and shall be determined in accordance with rules adopted by the board.

Sec. 26. Section 272C.3, subsection 1, paragraph d, Code Supplement 2001, is amended to read as follows:

d. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted. Notwithstanding the provisions of chapter 17A, a determination by a licensing board that an investigation is not warranted or that an investigation should be closed without initiating a disciplinary proceeding is not subject to judicial review pursuant to section 17A.19;

Sec. 27. Section 272C.5, subsection 2, paragraph c, Code Supplement 2001, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 147.58 through 147.71, 148.6 through 148.9, 152.10 and 152.11, ~~153.23 through 153.30, 153.33, and 154A.23, 542B.22, 542C.23, 543B.35, 543B.36, and 544B.16.~~

Sec. 28. NEW SECTION. 633.518 PRESUMPTION OF DEATH — PETITION AND INQUIRY.

If a petition is presented by an interested person to a district judge or magistrate alleging that a designated person has disappeared and after a diligent search cannot be found, and if it appears to the satisfaction of the judge or magistrate that the circumstances surrounding the disappearance afford reasonable grounds for the belief that the person has suffered death from accidental or other violent means, the judge or magistrate shall summon and impanel a jury of six qualified persons to inquire into the facts surrounding and the presumption to be raised from the disappearance. If no one submits a petition within forty days of the reported disappearance, a judge or magistrate may submit the petition from personal knowledge of the case.

Sec. 29. NEW SECTION. 633.519 PRESUMPTION OF DEATH — VERDICT AND ENTRY OF ORDER.

If a jury in an inquiry regarding the disappearance of an individual renders a unanimous verdict in writing that sufficient evidence has been presented to them from which it fairly may be presumed that the missing person has met death, and if the judge or magistrate concurs in the verdict, then, after a period of six months has elapsed, the person shall be presumed to be dead and the judge or magistrate shall enter an order to that effect. However, in cases where there is clear and convincing evidence of the presumed death, the judge or magistrate may enter the order prior to the elapsing of the six-month period.

Sec. 30. NEW SECTION. 633.520 PRESUMPTION OF DEATH — NATURAL OR MAN-MADE DISASTER.

A written finding of presumed death of a person resulting from a natural or man-made disaster, made by a local, state, or federal officer or employee authorized to make such a finding, or a duly certified copy of such a finding, shall be received by a judge or magistrate as evidence of the death of the person therein found to be dead, and of the date, circumstances, and place of the disappearance. Upon receipt of such evidence the judge or magistrate may enter an order of presumption of death of the person. Upon presentation of a certified court order, a certificate of death shall be filed pursuant to section 144.26.

Sec. 31. Sections 153.23 through 153.30, Code 2001, are repealed.

Approved April 11, 2002

CHAPTER 1109

ENERGY AND ENVIRONMENTAL RESEARCH AND DEVELOPMENT — IOWA ENERGY CENTER — ALTERNATIVE ENERGY REVOLVING LOAN PROGRAM

H.F. 2587

AN ACT relating to the Iowa energy center, including changes relating to salary adjustments, and promotion and administration of the alternative energy revolving loan program.

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

Section 1. Section 266.39C, subsection 3, Code 2001, is amended to read as follows:

3. Iowa state university of science and technology shall employ a director for the center,