

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 17

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 37-3201, IDAHO CODE,
2 TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1701, IDAHO
3 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-1702, IDAHO CODE, TO
4 REVISE TERMINOLOGY AND TO PROVIDE FOR PRACTICE INTO THE STATE; AMENDING
5 SECTION 54-1704, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION
6 54-1705, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1720,
7 IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO
8 FEES FOR NONRESIDENT PRACTICE AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
9 ING SECTION 54-1721, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE
10 FOR NONRESIDENT PRACTICE UNDER UNLAWFUL PRACTICE; AMENDING SECTION
11 54-1723A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE PROVISIONS
12 RELATING TO REGISTRATION FOR NONRESIDENTS IN TELEPHARMACY; AMENDING
13 SECTION 54-1726, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR
14 GROUNDS FOR DISCIPLINE FOR NONRESIDENT LICENSEES AND REGISTRANTS AND TO
15 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1728, IDAHO CODE, TO
16 REVISE TERMINOLOGY, TO PROVIDE FOR PENALTIES AND REINSTATEMENT FOR NON-
17 RESIDENT LICENSEES AND REGISTRANTS AND TO MAKE TECHNICAL CORRECTIONS;
18 AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE
19 FOR NONRESIDENT FACILITIES REGISTRATION REQUIREMENTS AND COMPLIANCE
20 STANDARDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1730,
21 IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO
22 DRUG OUTLET APPLICATION AND FEES AND TO MAKE TECHNICAL CORRECTIONS;
23 AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
24ERENCE AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 54-1740,
25 IDAHO CODE, RELATING TO SHORT TITLE; REPEALING SECTION 54-1741, IDAHO
26 CODE, RELATING TO LEGISLATIVE DECLARATION; REPEALING SECTION 54-1742,
27 IDAHO CODE, RELATING TO THE DEFINITION OF OUT-OF-STATE MAIL SERVICE
28 PHARMACY; REPEALING SECTION 54-1743, IDAHO CODE, RELATING TO LICENSE
29 REQUIREMENTS; REPEALING SECTION 54-1744, IDAHO CODE, RELATING TO
30 NOTIFICATIONS; REPEALING SECTION 54-1745, IDAHO CODE, RELATING TO IN-
31 SPECTIONS; REPEALING SECTION 54-1746, IDAHO CODE, RELATING TO PRODUCT
32 SELECTION OF PRESCRIBED DRUGS; REPEALING SECTION 54-1747, IDAHO CODE,
33 RELATING TO PATIENT COMMUNICATION; REPEALING SECTION 54-1748, IDAHO
34 CODE, RELATING TO VIOLATIONS AND PENALTIES; AMENDING SECTION 54-1761,
35 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION
36 54-4702, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING
37 SECTION 54-5110, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.
38

39 Be It Enacted by the Legislature of the State of Idaho:

40 SECTION 1. That Section 37-3201, Idaho Code, be, and the same is hereby
41 amended to read as follows:

1 37-3201. DEFINITIONS. As used in this chapter:

2 (1) "Code imprint" means a series of letters or numbers assigned by the
3 manufacturer or distributor to a specific drug, or marks or monograms unique
4 to the manufacturer or distributor of the drug, or both;

5 (2) "Distributor" means a person who distributes for resale a drug in
6 solid dosage form under his own label even though he is not the actual manu-
7 facturer of the drug;

8 (3) "Solid dosage form" means capsules or tablets intended for oral
9 use;

10 (4) "Legend drug" means any drug defined by section 54-1705 (3~~1~~4), Idaho
11 Code.

12 SECTION 2. That Section 54-1701, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 54-1701. SHORT TITLE. This ~~act~~ chapter shall be known as the "Idaho
15 Pharmacy Act."

16 SECTION 3. That Section 54-1702, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 54-1702. LEGISLATIVE DECLARATION. The practice of pharmacy in the
19 state of Idaho is declared a professional practice affecting the health,
20 safety and welfare of the public and is subject to regulation and control in
21 the public interest. It is further declared to be a matter of public interest
22 and concern that the practice of pharmacy, as defined in this chapter, merits
23 and receives the confidence of the public and that only qualified persons be
24 permitted to engage in the practice of pharmacy in or into the state of Idaho.
25 This ~~act~~ chapter shall be liberally construed to carry out these objects and
26 purposes.

27 SECTION 4. That Section 54-1704, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 54-1704. PRACTICE OF PHARMACY. "Practice of pharmacy" means:

30 (1) ~~T~~he interpretation, evaluation and dispensing of prescription
31 drug orders;

32 (2) ~~P~~participation in drug and device selection, drug administration,
33 prospective and retrospective drug regimen reviews and drug or drug-related
34 research; ~~the practice of telepharmacy within and across state lines;~~

35 (3) The provision of patient counseling and the provision of those acts
36 or services necessary to provide pharmaceutical care; ~~and~~

37 (4) ~~T~~he responsibility for:

38 (a) Compounding and labeling of drugs and devices, except labeling by
39 a manufacturer, repackager or distributor of nonprescription drugs and
40 commercially packaged legend drugs and devices;

41 (b) Proper and safe storage of drugs and devices, and maintenance of
42 proper records for them; and

43 (c) The offering or performing of those acts, services, operations or
44 transactions necessary to the conduct, operation, management and con-
45 trol of pharmacy. ~~Licensed pharmacists may;~~

- 1 (5) The ~~prescribe~~ prescribing of:
 2 (a) Dietary fluoride supplements when prescribed according to the
 3 American dental association's recommendations for persons whose drink-
 4 ing water is proven to have a fluoride content below the United States
 5 department of health and human services' recommended concentration-
 6 Licensed pharmacists may also prescribe; and
 7 (b) Agents for active immunization when prescribed for susceptible
 8 persons twelve (12) years of age or older for the protection from commu-
 9 nicable disease.

10 SECTION 5. That Section 54-1705, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 54-1705. DEFINITIONS. In this chapter:

- 13 (1) "Board of pharmacy" or "board" means the Idaho state board of phar-
 14 macy.
 15 (2) "Central drug outlet" means a resident or nonresident pharmacy,
 16 drug outlet, or business entity employing or contracting pharmacists to
 17 perform centralized pharmacy services.
 18 (3) "Central pharmacist" means a pharmacist performing centralized
 19 pharmacy services.
 20 (4) "Centralized pharmacy services" means the processing by a central
 21 drug outlet or central pharmacist of a request from another pharmacy to fill,
 22 refill, or dispense a prescription drug order, perform processing functions
 23 or provide cognitive or pharmaceutical care services. Each function may be
 24 performed by the same or different persons and at the same or different loca-
 25 tions.
 26 (5) "Counseling" or "counsel" means the effective communication by the
 27 pharmacist of information as set out in this chapter, to the patient or care-
 28 giver, in order to improve therapeutic outcomes by maximizing proper use of
 29 prescription ~~medications~~ drugs and devices. Specific areas of counseling
 30 shall include, but are not limited to:
 31 (a) Name and strength and description of the ~~medication~~ drug;
 32 (b) Route of administration, dosage, dosage form, continuity of ther-
 33 apy and refill information;
 34 (c) Special directions and precautions for preparation, administra-
 35 tion, storage and use by the patient as deemed necessary by the pharma-
 36 cist;
 37 (d) Side effects or adverse effects and interactions and therapeutic
 38 contraindications that may be encountered, including their avoidance,
 39 which may interfere with the proper use of the ~~medication~~ drug or device
 40 as was intended by the prescriber, and the action required if they oc-
 41 cur;
 42 (e) Techniques for self-monitoring drug therapy; and
 43 (f) Action to be taken in the event of a missed dose.
 44 (36) "Deliver" or "delivery" means the actual, constructive or at-
 45 tempted transfer of a drug or device from one (1) person to another, whether
 46 or not for a consideration.
 47 (47) "Device" means an instrument, apparatus, implement, machine, con-
 48 trivance, implant, in vitro reagent or other similar related article includ-
 49 ing any component part or accessory which is:

1 (a) Recognized in the official United States Pharmacopoeia or official
2 National Formulary, other drug compendia or any supplement to them;

3 (b) Intended for use in the diagnosis of disease or other conditions, or
4 the cure, mitigation, treatment or prevention of disease in man or other
5 animal;

6 (c) Intended to affect the structure or any function of the body of man
7 or other animal, and which does not achieve any of its principal in-
8 tended purposes through chemical action within or on the body of man or
9 other animal, and which is not dependent upon being metabolized for the
10 achievement of any of its principal intended purposes.

11 (58) "Dispense" or "dispensing" means the preparation and delivery of a
12 ~~prescription drug~~ pursuant to a lawful prescription drug order of a practi-
13 tioner in a suitable container appropriately labeled for subsequent admin-
14 istration to or use by a patient or other individual entitled to receive the
15 prescription drug.

16 (69) "Distribute" means the delivery of a drug other than by adminis-
17 tering or dispensing.

18 (710) "Drug" means:

19 (a) Articles recognized as drugs in the official United States Phar-
20 macopoeia, official National Formulary, official Homeopathic Pharma-
21 copoeia, other drug compendia or any supplement to any of them;

22 (b) Articles intended for use in the diagnosis, cure, mitigation,
23 treatment or prevention of disease in man or other animal;

24 (c) Articles, other than food, intended to affect the structure or any
25 function of the body of man or other animals; and

26 (d) Articles intended for use as a component of any articles specified
27 in paragraph (a), (b) or (c) of this subsection.

28 (811) "Drug order" means a prescription drug order issued in the
29 unique form and manner permitted for a patient or resident of an institu-
30 tional facility, or as permitted for other purposes when permitted by board
31 as defined in rules that contains at least the name of the patient; date of
32 issuance; the drug name, strength, and route of administration; directions
33 for use; the name of the prescribing practitioner and, if written, the pre-
34 scribing practitioner's signature or the signature of the practitioner's
35 agent. Unless specifically differentiated, state law applicable to a pre-
36 scription drug order is also applicable to a drug order.

37 (912) "Drug outlets" means all resident or nonresident pharmacies,
38 business entities and other facilities with where employees or personnel
39 are engaged in the practice of pharmacy, in the provision of pharmaceutical
40 care, or in the dispensing, delivering, distributing or manufacturing of
41 drugs or devices in or into Idaho.

42 (103) "Extern" means a bona fide student enrolled in an approved school
43 or college of pharmacy who has not received his first professional degree in
44 pharmacy.

45 (114) "Externship" means a structured practical experience program in
46 pharmacy, ~~approved by the board and administered by a~~ school or college of
47 pharmacy.

48 (125) "Institutional facility" means a facility for which its primary
49 purpose is to provide a physical environment for patients to obtain health

1 care services and in which patients spend a majority of their time, as may be
2 further defined by board rules.

3 (136) "Intern" means any person who has completed a course of study at
4 an approved school or college of pharmacy, received the first professional
5 degree in pharmacy and is registered with the board as an pharmacist intern.
6 Interns must register with the board prior to commencement of an internship
7 program.

8 (147) "Internship" means a postgraduate practical experience program
9 under the supervision of a preceptor ~~at a preceptor site~~.

10 (158) "Investigational or new drug" means any drug which is limited by
11 state or federal law to use under professional supervision of a practitioner
12 authorized by law to prescribe or administer such drug.

13 (169) "Labeling" means the process of preparing and affixing of a la-
14 bel to any drug container, exclusive however, of the labeling by a manufac-
15 turer, packer or distributor of a nonprescription drug or commercially pack-
16 aged legend drug or device. Any such label shall include all information re-
17 quired by federal and state law ~~or regulation~~.

18 (1720) "Limited service outlet" means a resident or nonresident facil-
19 ity or business entity that is subject to registration ~~or licensure~~ by the
20 board, pursuant to section 54-1729(3), Idaho Code, ~~in that it~~ and has em-
21 ployees or personnel engaged in the practice of pharmacy, in the provision of
22 pharmaceutical care, or in the dispensing, delivering, distributing or man-
23 ufacturing of drugs or devices but is not a retail pharmacy, institutional
24 facility, manufacturer, wholesaler, veterinary drug outlet, ~~telepharmacy~~
25 ~~across state lines~~ nonresident central drug outlet or mail service pharmacy.

26 (21) "Mail service pharmacy" means a nonresident pharmacy that ships,
27 mails or delivers by any lawful means a dispensed legend drug to residents
28 in this state pursuant to a legally issued prescription drug order and en-
29 sures the provision of corresponding related pharmaceutical care services
30 required by law.

31 (1822) "Manufacture" means the production, preparation, propagation,
32 compounding, conversion or processing of a device or a drug, either directly
33 or indirectly by extraction from substances of natural origin or independ-
34 ently by means of chemical synthesis or by a combination of extraction and
35 chemical synthesis and includes any packaging or repackaging of the sub-
36 stance or labeling or relabeling of its container, except that this term does
37 not include the preparation or compounding of a drug by an individual for his
38 own use or the preparation, compounding, packaging or labeling of a drug:

39 (a) By a pharmacist or practitioner as an incident to his administering
40 or dispensing of a drug in the course of his professional practice; or

41 (b) By a practitioner or by his authorization under his supervision for
42 the purpose of or as an incident to research, teaching or chemical anal-
43 ysis and not for sale.

44 (1923) "Manufacturer" means a person who by compounding, cultivating,
45 harvesting, mixing or other process, produces or prepares legend drugs,
46 and includes persons who prepare such drugs in dosage forms by mixing, com-
47 pounding, encapsulating, entableting, or other process, or who packages or
48 repackages such drugs, but does not include pharmacists or practitioners in
49 the practice of their profession.

1 (204) "Nonprescription drugs" means medicines or drugs which may be
 2 sold without a prescription drug order and which are prepackaged for use by
 3 the consumer and labeled in accordance with ~~the requirements of the statutes~~
 4 ~~and regulations of this state and the federal government law.~~

5 (25) "Nonresident" means a person or business entity located in the Dis-
 6 trict of Columbia or a state other than Idaho that practices pharmacy includ-
 7 ing, but not limited to, pharmaceutical care services into Idaho.

8 (216) "Person" means an individual, corporation, partnership, associa-
 9 tion or any other legal entity.

10 (227) "Pharmaceutical care" means drug therapy and other pharmaceuti-
 11 cal patient care services intended to achieve outcomes related to the cure or
 12 prevention of a disease, elimination or reduction of a patient's symptoms,
 13 or arresting or slowing of a disease process as defined in the rules of the
 14 board.

15 (238) "Pharmacist" means an individual licensed by this state to en-
 16 gage in the practice of pharmacy or a pharmacist ~~licensed registered by~~
 17 ~~this state who is located in another state who or the District of Columbia~~
 18 ~~and is registered by the board of pharmacy to engaged~~ in the practice of
 19 ~~telepharmacy across state lines pharmacy into Idaho, unless exempted.~~

20 (29) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifica-
 21 tions, responsibilities and reporting requirements are defined in rule.

22 (2430) "Pharmacy" means any facility, department or other place where
 23 prescriptions drug orders are filled or compounded and prescriptions are
 24 sold, dispensed, offered or displayed for sale, which has, as its principal
 25 purpose, the dispensing of drug and health supplies intended for the general
 26 health, welfare and safety of the public.

27 ~~(25) "Practice of telepharmacy" means the provision of pharmaceutical~~
 28 ~~care by registered or licensed pharmacies and pharmacists located within~~
 29 ~~United States jurisdictions through the use of telecommunications or other~~
 30 ~~technologies to patients at distances that are located within United States~~
 31 ~~jurisdictions, as defined in the rules of the board.~~

32 ~~(26) "Practice of telepharmacy across state lines" means the practice~~
 33 ~~of telepharmacy when the patient is located within the state of Idaho and the~~
 34 ~~pharmacist is located in a United States jurisdiction outside the state of~~
 35 ~~Idaho, as defined in the rules of the board.~~

36 (2731) "Practitioner" means a person licensed in this state and permit-
 37 ted by such license to dispense, conduct research with respect to or adminis-
 38 ter drugs in the course of professional practice or research in this state.

39 (2832) "Precursor" means a substance, other than a legend drug which is
 40 an immediate chemical intermediate that can be processed or synthesized into
 41 a legend drug, and is used or produced primarily for use in the manufacture
 42 of a legend drug by persons other than persons licensed to manufacture such
 43 legend drugs by the Idaho board of pharmacy, registered by the state board
 44 of health and welfare, or licensed to practice pharmacy by the Idaho board of
 45 pharmacy.

46 (2933) "Preceptor" means a pharmacist licensed ~~in the state~~ and in good
 47 standing, who supervises the internship or externship training of a regis-
 48 ~~tered intern~~ student pharmacist. The preceptor shall be actively engaged in
 49 the practice of pharmacy on a full-time employment basis ~~at a registered pre-~~
 50 ~~ceptor site.~~

1 ~~(30) "Preceptor site" means any training site for pharmacy interns and~~
2 ~~externs registered with the board pursuant to board rule.~~

3 (314) "Prescription drug or legend drug" means a drug which, under fed-
4 eral law is required, prior to being dispensed or delivered, to be labeled
5 with one (1) of the following statements:

6 (a) "Caution: Federal law prohibits dispensing without a prescrip-
7 tion"; or

8 (b) "Rx Only"; or

9 (c) "Caution: Federal law restricts this drug to use by or on the order
10 of a licensed veterinarian";

11 or a drug which is required by any applicable federal or state law or regula-
12 tion to be dispensed on prescription drug order only or is restricted to use
13 by practitioners only.

14 (325) "Prescription drug order" means a ~~lawful written or verbal valid~~
15 ~~order of a practitioner for a drug or device for an ultimate user of the~~
16 ~~drug or device, issued and signed by a practitioner, or an order transmitted~~
17 ~~verbally from a practitioner or the practitioner's agent to a pharmacist~~
18 ~~in a pharmacy, or transmitted verbally from a practitioner and immediately~~
19 ~~reduced to writing by a licensed practical nurse or licensed professional~~
20 ~~nurse in an institutional facility for a patient or resident of such facil-~~
21 ~~ity.~~

22 (336) "Prospective drug review" includes, but is not limited to, the
23 following activities:

24 (a) Evaluation of the prescription ~~or medication~~ drug order for:

25 (i) Known allergies;

26 (ii) Rational therapy contraindications;

27 (iii) Reasonable dose and route of administration; and

28 (iv) Reasonable directions for use.

29 (b) Evaluation of the prescription ~~or medication~~ drug order for dupli-
30 cation of therapy.

31 (c) Evaluation of the prescription ~~or medication~~ drug order for inter-
32 actions:

33 (i) Drug-drug;

34 (ii) Drug-food; and

35 (iii) Drug-disease.

36 (d) Evaluation of the prescription ~~or medication~~ drug order for proper
37 utilization:

38 (i) Over or under utilization; and

39 (ii) Abuse/misuse.

40 (347) "Record" means all papers, letters, memoranda, notes, prescrip-
41 tions, drug orders, invoices, statements, patient medication charts or
42 files, computerized records or other written indicia, documents or objects
43 which are used in any way in connection with the purchase, sale or handling of
44 any drug or device.

45 (358) "Sale" means every sale and includes:

46 (a) Manufacturing, processing, transporting, handling, packaging or
47 any other production, preparation or repackaging;

48 (b) Exposure, offer, or any other proffer;

49 (c) Holding, storing or any other possession;

50 (d) Dispensing, giving, delivering or any other supplying; and

1 (e) Applying, administering or any other usage.

2 (369) "Warehouseman" means a person who stores legend drugs for others
3 and who has no control over the disposition of such drugs except for the pur-
4 pose of such storage.

5 (3740) "Wholesaler" means a person engaged in the business of dis-
6 tributing legend drugs that he himself has not produced or prepared, to
7 persons included in any of the classes named in subsection (2) (a) through (f)
8 of section 54-1734, Idaho Code.

9 SECTION 6. That Section 54-1720, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy
12 shall have such other duties, powers, and authority as may be necessary to
13 the enforcement of this ~~act~~ chapter and to the enforcement of board rules
14 made pursuant thereto, which shall include, but are not limited to, the fol-
15 lowing:

16 (1) The board may join such professional organizations and associa-
17 tions organized exclusively to promote the improvement of the standards of
18 the practice of pharmacy for the protection of the health and welfare of the
19 public and whose activities assist and facilitate the work of the board.

20 (2) In addition to any statutory requirements, the board may require
21 such surety bonds as it deems necessary to guarantee the performance and
22 discharge of the duties of any officer or employee receiving and disbursing
23 funds.

24 (3) The executive director of the board shall keep the seal of the board
25 and shall affix it only in such manner as may be prescribed by the board.

26 (4) On or before the 60th day after the last day of each state fiscal
27 year, the board shall submit to the governor a report summarizing its pro-
28 ceedings and activities during that fiscal year, together with a report of
29 all moneys received and disbursed by the board. Such reports or comprehen-
30 sive summaries or abstracts thereof, as determined by the board shall be made
31 available to the public.

32 (5) (a) The board shall determine ~~within thirty (30) days prior to the~~
33 ~~beginning of each state fiscal year~~ the fees to be collected for:

34 ~~1. (i)~~ Examinations and reexaminations, which fee shall not ex-
35 ceed two hundred fifty dollars (\$250);

36 ~~2. (ii)~~ The issuance of licenses, which fee shall not exceed two
37 hundred fifty dollars (\$250);

38 ~~3. (iii)~~ The issuance and renewal of certificates of registra-
39 tion and renewal certificates of registration, which fee shall
40 not exceed one hundred dollars (\$100), except in the case of
41 out-of-state mail service pharmacies licensed pursuant to section
42 54-1743, Idaho Code, in which case the fee for nonresident regis-
43 trations shall not exceed five hundred dollars (\$500) for initial
44 registration and two hundred fifty dollars (\$250); and

45 ~~4. The certification of approved providers of continuing educa-~~
46 ~~tion courses, which fee shall not exceed three hundred dollars~~
47 ~~(\$300) thereafter for annual renewals.~~

48 (b) All fees or fines which shall be paid under the provisions of this
49 ~~act~~ chapter shall be paid over by the board to the treasurer of the state

1 of Idaho, and shall be held by the state treasurer in the pharmacy ac-
 2 count, which shall be paid out by the state treasurer upon warrant drawn
 3 by the state controller against said account. The state controller is
 4 hereby authorized, upon presentation of the proper vouchers of claims
 5 against the state, approved by the said board and the state board of ex-
 6 aminers, as provided by law, to draw his warrant upon said account.

7 (6) The board may receive and expend moneys in addition to its annual
 8 appropriations, from parties other than the state, provided:

9 (a) Such moneys are awarded for the pursuit of a specific objective
 10 which the board is authorized to accomplish by this ~~aet~~ chapter, or
 11 which the board is qualified to accomplish by reason of its jurisdiction
 12 or professional expertise;

13 (b) Such moneys are expended for the pursuit of the objective for which
 14 they are awarded;

15 (c) Activities connected with or occasioned by the expenditures of such
 16 moneys do not interfere with or impair the performance of the board's
 17 duties and responsibilities and do not conflict with the exercise of the
 18 board's powers as specified by this ~~aet~~ chapter;

19 (d) Such moneys are kept in a separate, special state account; and

20 (e) Periodic reports are made to the administrator, division of ~~budget,~~
 21 ~~policy planning and coordination~~ financial management, concerning the
 22 board's receipt and expenditure of such moneys.

23 (7) The board shall assign to each drug outlet under its jurisdiction, a
 24 uniform state number, ~~coordinated where possible with all other states which~~
 25 ~~adopt the same uniform numbering system.~~

26 (8) The board or its authorized representatives shall also have power
 27 to investigate and gather evidence concerning alleged violations of the pro-
 28 visions of this ~~aet~~ chapter or of the rules of the board.

29 (9) (a) Notwithstanding anything in this ~~aet~~ chapter to the contrary,
 30 whenever a duly authorized representative of the board finds or has
 31 probable cause to believe that any drug, or device is adulterated or
 32 misbranded within the meaning of the Idaho food, drug and cosmetic act,
 33 he shall affix to such drug or device a tag or other appropriate marking
 34 giving notice that such article is or is suspected of being adulterated
 35 or misbranded, has been detained or embargoed and warning all persons
 36 not to remove or dispose of such article by sale or otherwise until
 37 provision for removal or disposal is given by the board, its agent or
 38 the court. No person shall remove or dispose of such embargoed drug or
 39 device by sale or otherwise without the permission of the board or its
 40 agent or, after summary proceedings have been instituted, without per-
 41 mission from the court.

42 (b) When a drug or device detained or embargoed under paragraph (a)
 43 of this subsection (9) has been declared by such representative to be
 44 adulterated or misbranded, the board shall, as soon as practical there-
 45 after, petition the judge of the district court in whose jurisdiction
 46 the article is detained or embargoed for an order for condemnation of
 47 such article. If the judge determines that the drug or device so de-
 48 tained or embargoed is not adulterated or misbranded, the board shall
 49 direct the immediate removal of the tag or other marking.

1 (c) If the court finds the detained or embargoed drug or device is adul-
2 terated or misbranded, such drug or device, after entry of the decree,
3 shall be destroyed at the expense of the owner under the supervision of
4 a board representative and all court costs and fees, storage and other
5 proper expense shall be borne by the owner of such drug or device. When
6 the adulteration or misbranding can be corrected by proper labeling or
7 processing of the drug or device, the court, after entry of the decree
8 and after such costs, fees and expenses have been paid and a good and
9 sufficient bond has been posted, may direct that such drug or device be
10 delivered to the owner thereof for such labeling or processing under
11 the supervision of a board representative. Expense of such supervision
12 shall be paid by the owner. Such bond shall be returned to the owner of
13 the drug or device on representation to the court by the board that the
14 drug or device is no longer in violation of the embargo and the expense
15 of supervision has been paid.

16 (d) It is the duty of the attorney general to whom the board reports any
17 violation of this subsection to cause appropriate proceedings to be in-
18 stituted in the proper court without delay and to be prosecuted in the
19 manner required by law. Nothing in this subsection (9) shall be con-
20 strued to require the board to report violations whenever the board be-
21 lieves the public's interest will be adequately served in the circum-
22 stances by a suitable written notice or warning.

23 (10) Except as otherwise provided to the contrary, the board shall ex-
24 ercise all of its duties, powers and authority in accordance with the admin-
25 istrative procedures act.

26 (11) (a) For the purpose of any proceedings held before the board as
27 authorized by law, including the refusal, nonrenewal, revocation or
28 suspension of licenses, registrations or certifications authorized by
29 this ~~act~~ chapter, or the imposition of fines or reprimands on persons
30 holding such licenses, certification or registrations, the board may
31 subpoena witnesses and compel their attendance, and may also at such
32 time require the production of books, papers, documents or other memo-
33 randa. In any such proceeding before the board, any member of the board,
34 or its designee, may administer oaths or affirmations to witnesses so
35 appearing.

36 (b) If any person shall refuse to obey a subpoena so issued, or refuse
37 to testify or produce any books, papers or documents called for by said
38 subpoena, the board may make application to the district court of the
39 county in which the proceeding is held, for an order of the court re-
40 quiring the person to appear before the court, and to show cause why the
41 person should not be compelled to testify, to produce such books, pa-
42 pers, memoranda or other documents required by the subpoena, or other-
43 wise comply with its terms. The application shall set forth the action
44 theretofore taken by the board to compel the attendance of the witness,
45 the circumstances surrounding the failure of the witness to attend or
46 otherwise comply with the subpoena, together with a brief statement of
47 the reasons why compliance with the subpoena is necessary to the pro-
48 ceeding before the board.

49 (c) Upon the failure of a person to appear before the court at the time
50 and place designated by it, the court may enter an order without further

1 proceedings requiring the person to comply with the subpoena. Any per-
2 son failing or refusing to obey such order of the court shall be punished
3 for contempt of court as in other cases provided.

4 SECTION 7. That Section 54-1721, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person or
7 business entity to engage in the practice of pharmacy including, but not lim-
8 ited to, pharmaceutical care services in or into Idaho unless licensed or
9 registered to so practice under the provisions of this act; chapter, except
10 as provided, however, herein:

11 (a) Physicians, dentists, veterinarians, osteopaths or other practi-
12 tioners of the healing arts who are licensed under the laws of this state
13 may deliver and administer prescription drugs to their patients in the
14 practice of their respective professions where specifically authorized
15 to do so by statute of this state; and

16 (b) Nonresident pharmacists practicing pharmacy into Idaho who are em-
17 ployed by and practicing for an Idaho registered nonresident mail ser-
18 vice pharmacy.

19 (2) Notwithstanding the provisions of subsection (1) of this section
20 and any statute or rule to the contrary, persons who hold a valid and current
21 license to practice practical or professional nursing in this state pursuant
22 to sections 54-1407, 54-1408 and 54-1418, Idaho Code, and who are employed
23 by one (1) of the public health districts established under section 39-408,
24 Idaho Code, shall be permitted to engage in the labeling and delivery of
25 refills of the following prepackaged items when such items have been pre-
26 scribed to a patient by a licensed physician, licensed physician's assistant
27 or licensed advanced practice nurse:

28 (a) Prenatal vitamins;

29 (b) Contraceptive ~~medications~~ drugs approved by the United States food
30 and drug administration;

31 (c) Antiviral ~~medications~~ drugs approved by the United States centers
32 for disease control and prevention for treatment of sexually transmit-
33 ted infection; and

34 (d) ~~Medications~~ Drugs approved by the United States centers for disease
35 control and prevention for treatment of active and latent tuberculosis.

36 (3) It shall be unlawful for any person, not legally licensed or regis-
37 tered as a pharmacist, to take, use or exhibit the title of pharmacist or the
38 title of druggist or apothecary, or any other title or description of like
39 import.

40 (4) Any person who shall be found to have unlawfully engaged in the
41 practice of pharmacy shall be subject to a fine not to exceed three thousand
42 dollars (\$3,000) for each offense. Each such violation of this act chapter
43 or the rules promulgated hereunder pertaining to unlawfully engaging in the
44 practice of pharmacy shall also constitute a misdemeanor punishable upon
45 conviction as provided in the criminal code of this state.

46 SECTION 8. That Section 54-1723A, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 54-1723A. REGISTRATION TO ENGAGE IN THE PRACTICE OF TELEPHARMACY
2 ~~ACROSS STATE LINES INTO IDAHO.~~ (1) ~~No pharmacist who is not licensed to~~
3 ~~obtain a registration to practice pharmacy within as a pharmacist into the~~
4 ~~state of Idaho may engage in the practice of telepharmacy across state lines~~
5 ~~unless registered by the board pursuant to this section.~~

6 ~~(2) To obtain registration to engage in the practice of telepharmacy~~
7 ~~across state lines, the applicant shall:~~

8 ~~(a) Present to the board proof of licensure in another Be licensed and~~
9 ~~in good standing in the state and proof that such license is in good~~
10 ~~standing from which the applicant practices pharmacy;~~

11 ~~(b) Submit a written application in the form prescribed by the board;~~

12 ~~(c) Pay the fee(s) specified by the board for the issuance of the regis-~~
13 ~~tration; and~~

14 ~~(d) Be located in one (1) of the fifty (50) states or the District of~~
15 ~~Columbia; and~~

16 ~~(e) Comply with all other requirements of the board.~~

17 ~~(3) The application required under this section shall request from the~~
18 ~~applicant, at a minimum, the following information:~~

19 ~~(a) Name, address and current pharmacist licensure information in all~~
20 ~~other states, including each state of licensure and each license num-~~
21 ~~ber;~~

22 ~~(b) Name, address, telephone number and state of licensure or registra-~~
23 ~~tion and license or registration number of the facility from which the~~
24 ~~applicant will be engaged in the practice of telepharmacy across state~~
25 ~~lines; and~~

26 ~~(c) A statement attesting that the applicant will abide by the pharmacy~~
27 ~~laws and rules of the state of Idaho.~~

28 (42) A successful applicant for registration under this section shall
29 be subject to the disciplinary provisions of section 54-1726, Idaho Code,
30 the penalty provisions of section 54-1728, Idaho Code, and the rules of the
31 board.

32 (3) A successful applicant for registration under this section shall
33 comply with the board's laws and rules of this state unless compliance would
34 violate the laws or rules in the state in which the registrant is located,
35 except as follows:

36 (a) A technician shall not exceed the practice limitations for techni-
37 cians in Idaho;

38 (b) A pharmacist shall only substitute drug products in accordance with
39 Idaho law;

40 (c) A pharmacist shall only select drug products in accordance with
41 Idaho law; and

42 (d) A pharmacist shall not exceed the pharmacy staffing ratio, as de-
43 defined in rule.

44 ~~(54) Renewal of a registration to engage in the practice of pharmacy~~
45 ~~across state lines shall be required annually and. The application for re-~~
46 ~~newal shall be submitted to the board no later than the thirtieth day of June.~~
47 ~~The board shall renew the registration of a pharmacist who is qualified to~~
48 ~~engage in the practice of pharmacy across state lines as provided for in this~~
49 ~~section. The board shall specify by rule the procedures to be followed and~~
50 ~~the fees to be paid for renewal of registration.~~

1 SECTION 9. That Section 54-1726, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-1726. GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may refuse
4 to issue or renew, or may suspend, revoke or restrict the licenses or regis-
5 tration of any person, pursuant to the procedures set forth in chapter 52,
6 title 67, Idaho Code, upon one (1) or more of the following grounds:

7 (a) Unprofessional conduct as that term is defined by the rules of the
8 board;

9 (b) Incapacity of a nature that prevents a pharmacist from engaging in
10 the practice of pharmacy with reasonable skill, competence and safety
11 to the public;

12 (c) Being found guilty, convicted or having received a withheld judg-
13 ment or suspended sentence by a court of competent jurisdiction in this
14 state or any other state of one (1) or more of the following:

15 ~~1-~~ (i) Any felony;

16 ~~2-~~ (ii) Any act involving moral turpitude, gross immorality or
17 which is related to the qualifications, functions or duties of a
18 licensee; or

19 ~~3-~~ (iii) Violations of the pharmacy or drug laws of this state or
20 rules pertaining thereto, or of statutes, rules or regulations of
21 any other state, or of the federal government;

22 (d) Fraud or intentional misrepresentation by a licensee in securing
23 the issuance or renewal of a license.

24 (e) Engaging or aiding and abetting an individual to engage in the prac-
25 tice of pharmacy without a license, or falsely using the title of phar-
26 macist.

27 (f) Being found by the board to be in violation of any of the provisions
28 of this chapter, chapter 27, title 37, Idaho Code, or rules adopted pur-
29 suant to either chapter.

30 (2) Nonresident licensees and registrants shall be held accountable to
31 the board for violations by its agents and employees and subject to the same
32 grounds for discipline and penalties for their actions as set forth herein.

33 SECTION 10. That Section 54-1728, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the ex-
36 istence of grounds for discipline of any person or business entity holding a
37 license or registration, seeking a license or registration, or a renewal li-
38 cense or registration under the provisions of this ~~act~~ chapter, the board of
39 pharmacy may impose one (1) or more of the following penalties:

40 (a) Suspension of the offender's license or registration for a term to
41 be determined by the board;

42 (b) Revocation of the offender's license or registration;

43 (c) Restriction of the offender's license or registration to prohibit
44 the offender from performing certain acts or from engaging in the prac-
45 tice of pharmacy in a particular manner for a term to be determined by
46 the board;

47 (d) Refusal to renew offender's license or registration;

1 (e) Placement of the offender on probation and supervision by the board
2 for a period to be determined by the board;

3 (f) Imposition of an administrative fine not to exceed two thousand
4 dollars (\$2,000) plus costs of prosecution and administrative costs of
5 bringing the action including, but not limited to, attorney's fees and
6 costs and costs of hearing transcripts.

7 (2) The board may take any action against a nonresident licensee or reg-
8 istrant that the board can take against a resident licensee or registrant for
9 violation of the laws of this state or the state in which it resides.

10 (3) The board may report any violation by a nonresident licensee or reg-
11 istrant, or its agent or employee, of the laws and rules of this state, the
12 state in which it resides or the United States to any appropriate state or
13 federal regulatory or licensing agency including, but not limited to, the
14 regulatory agency of the state in which the nonresident licensee or regis-
15 trant is a resident.

16 (4) The board may elect to not initiate an administrative action under
17 Idaho law against a nonresident licensee or registrant upon report of a vi-
18 olation of law or rule of this state if the licensee's or registrant's home
19 state commences an action for the violation complained of; provided however,
20 that the board may elect to initiate an administrative action if the home
21 state action is unreasonably delayed or the home state otherwise fails to
22 take appropriate action for the reported violation.

23 (5) The suspension, revocation, restriction or other action taken
24 against a licensee or registrant by a state licensing board with authority
25 over a licensee's or registrant's professional license or registration or
26 by the drug enforcement administration may result in the board's issuance of
27 an order likewise suspending, revoking, restricting or otherwise affecting
28 the license or registration in this state, without further proceeding, but
29 subject to the effect of any modification or reversal by the issuing state or
30 the drug enforcement administration.

31 (6) Any person whose license to practice pharmacy in this state has
32 been suspended, revoked or restricted pursuant to this act chapter, or any
33 drug outlet whose certificate of registration has been suspended, revoked
34 or restricted pursuant to this act chapter, whether voluntarily or by action
35 of the board, shall have the right, at reasonable intervals, to petition
36 the board for reinstatement of such license. Such petition shall be made
37 in writing and in the form prescribed by the board. Upon investigation and
38 hearing, the board may in its discretion grant or deny such petition, or
39 it may modify its original finding to reflect any circumstances which have
40 changed sufficiently to warrant such modifications.

41 (37) Nothing herein shall be construed as barring criminal prosecu-
42 tions for violations of the act where such violations are deemed as criminal
43 offenses in other statutes of this state or of the United States.

44 (48) All final decisions by the board shall be subject to judicial re-
45 view pursuant to the procedures of the administrative procedure act.

46 SECTION 11. That Section 54-1729, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or de-
49 vice outlets doing business in or into Idaho shall ~~annually register with or:~~

1 (a) If a nonresident, be licensed by, as applicable, the board of phar-
 2 macy or registered and in good standing in the applicant's state of res-
 3 idence;

4 (b) Submit a written application in the form prescribed by the board;

5 (c) Pay the fee or fees specified by the board for the issuance of the
 6 registration or license;

7 (d) Be located in one (1) of the fifty (50) states or the District of
 8 Columbia; and

9 (e) Have a PIC or director who is licensed or registered by the board,
 10 except manufacturers, wholesalers, veterinary drug outlets and limited
 11 service outlets without a pharmacy.

12 (2) Each drug or device outlet shall apply for a certificate of regis-
 13 tration or a license in one (1) of the following classifications:

14 (a) Retail pharmacy;

15 (b) Institutional facility;

16 (c) Manufacturer;

17 (d) Wholesaler;

18 (e) Veterinary drug outlet;

19 (f) ~~Telepharmacy across state lines~~ Nonresident central drug outlet;

20 (g) Mail service pharmacy;

21 (h) Limited service outlet.

22 (3) The board shall establish by rule under the powers granted to it un-
 23 der sections 54-1718 and 54-1719, Idaho Code, the criteria which each drug
 24 outlet, that has employees or personnel engaged in the practice of pharmacy,
 25 must meet to qualify for registration or licensure in each classification
 26 designated in subsection (2) of this section. The board may issue various
 27 types of certificates with varying restrictions to such ~~limited service out-~~
 28 lets designated in subsection (2) of this section where the board deems it
 29 necessary by reason of the type of drug outlet requesting a certificate.

30 (4) It shall be lawful for an drug outlet registered or licensed under
 31 this section to sell and distribute nonprescription drugs. ~~Drug o~~Outlets
 32 engaging in the sale and distribution of such items shall not be deemed to be
 33 improperly engaged in the practice of pharmacy. No rule will be adopted by
 34 the board under this chapter which shall require the sale of nonprescription
 35 drugs by a ~~licensed~~ pharmacist or under the supervision of a ~~licensed~~ phar-
 36 macist or otherwise apply to or interfere with the sale and distribution of
 37 such medicines.

38 (5) If the regulatory board or licensing authority of the state in which
 39 a nonresident outlet is located fails or refuses to conduct an inspection
 40 or fails to obtain records or reports required by the board, upon reason-
 41 able notice to the nonresident outlet, the board may conduct an inspection.
 42 Drug Nonresident outlets registered under subsection (2) (f) of this section
 43 shall pay the same registration fee as those registering under subsection
 44 (2) (b) of this section, but shall also pay the actual costs of the out-of-
 45 state inspection of the drug outlet as may be required by the board, includ-
 46 ing the transportation, lodging and related expenses of the board's inspec-
 47 tor. Nothing in this section shall preclude the board, in lieu of an inspec-
 48 tion by the board, from relying on an inspection of the drug outlet conducted
 49 by the regulatory authority of the state within which the drug outlet is lo-
 50 ated.

1 (6) A successful applicant for registration under the provisions of
 2 this section shall be subject to the disciplinary provisions of section
 3 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code,
 4 and the rules of the board.

5 (7) A successful applicant for registration under the provisions of
 6 this section shall comply with the board's laws and rules of this state un-
 7 less compliance would violate the laws or rules in the state in which the
 8 registrant is located, except as follows:

9 (a) A technician shall not exceed the practice limitations for techni-
 10 cians in Idaho;

11 (b) A pharmacist shall only substitute drug products in accordance with
 12 the board's laws and rules;

13 (c) A pharmacist shall only select drug products in accordance with the
 14 board's laws and rules; and

15 (d) A pharmacy shall not exceed the pharmacy staffing ratio, as defined
 16 in rule.

17 (8) Renewal shall be required annually and submitted to the board no
 18 later than the thirtieth day of June. The board shall specify by rule the
 19 procedures to be followed and the fees to be paid for renewal of registration
 20 or licensure.

21 SECTION 12. That Section 54-1730, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall
 24 specify by rule ~~or regulation~~ the registration procedures to be followed,
 25 including, but not limited to, specification of forms for use in applying for
 26 such certificates of registration and times, places and fees for filing such
 27 application; provided, however, the annual fee for an original or renewal
 28 certificate shall not exceed one hundred dollars (\$100), except the fee for
 29 nonresident pharmacies or outlets shall not exceed five hundred dollars
 30 (\$500) for initial registration and two hundred fifty dollars (\$250) there-
 31 after for annual renewals.

32 (2) Applications for certificates of registration shall include the
 33 following information about the proposed ~~drug~~ outlet:

34 (a) Ownership;

35 (b) Location;

36 (c) Identity of pharmacist licensed or registered to practice in the
 37 state, who shall be the pharmacist in charge of the ~~drug~~ outlet, where
 38 one (1) is required by this ~~act~~ chapter, and such further information as
 39 the board may deem necessary.

40 (3) Certificates of registration issued by the board pursuant to this
 41 ~~act~~ chapter shall not be transferable or assignable.

42 (4) The board shall specify by rule ~~and regulation~~ minimum standards
 43 for the professional responsibility in the conduct of any ~~drug~~ outlet that
 44 has employees or personnel engaged in the practice of pharmacy. The board is
 45 specifically authorized to require that the portion of the facility to which
 46 such certificate of registration applies be operated only under the direct
 47 supervision of no less than one (1) pharmacist licensed to practice in this
 48 state and not otherwise, and to provide such other special requirements as
 49 deemed necessary.

1 SECTION 13. That Section 54-1732, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in
4 section 54-1729, Idaho Code, shall be operated until a certificate of reg-
5 istration has been issued to said facility by the board. Upon the finding of
6 a violation of this subsection, the board may impose one (1) or more of the
7 penalties enumerated in section 54-1728, Idaho Code.

8 (2) Reinstatement of a certificate that has been suspended, revoked
9 or restricted by the board may be granted in accordance with the procedures
10 specified in section 54-1728 (26), Idaho Code.

11 (3) The following acts, or the failure to act, and the causing of any
12 such act or failure are unlawful:

13 (a) The sale, delivery or administration of any prescription drug or
14 legend drug unless:

15 (i) Such legend drug is dispensed or delivered by a pharmacist
16 upon an original prescription, drug order or prescription drug or-
17 der by a practitioner in good faith in the course of his practice.
18 Any person violating the provisions of this subparagraph shall
19 be guilty of a felony, and on conviction thereof shall be impris-
20 oned in the state penitentiary for a term not to exceed three (3)
21 years, or punished by a fine of not more than five thousand dollars
22 (\$5,000) or by both such fine and imprisonment.

23 (ii) There is affixed, in the case of a legend drug dispensed or
24 delivered by a pharmacist, to the immediate container in which
25 such drug is delivered a label bearing the name, address, and phone
26 number of the establishment from which such drug was dispensed;
27 the date on which the prescription for such drug was filled; the
28 number of such prescription as filed in the prescription files of
29 the pharmacist who filled the prescription; the name of the prac-
30 titioner who prescribed such drug; the name of the patient, and
31 if such drugs were prescribed for an animal, a statement of the
32 species of the animal; and the directions for the use of the drug
33 as contained in the prescription; or in the case of a legend drug
34 delivered or administered by a practitioner in the course of his
35 practice, the immediate container in which such drug is delivered
36 bears a label on which appears the directions for use of such drug;
37 the name and address of such practitioner; the name of the patient;
38 and if such drug is prescribed for an animal, a statement of the
39 species of the animal. Any person violating this subparagraph
40 shall be guilty of a misdemeanor and upon conviction thereof shall
41 be fined not more than five hundred dollars (\$500). Nothing in
42 this subparagraph prohibits a practitioner from delivering pro-
43 fessional samples of legend drugs in their original containers in
44 the course of his practice when oral directions for use are given
45 at the time of such delivery.

46 (b) The refilling of any prescription or drug order for a legend drug
47 except as designated on the prescription or drug order, or by the autho-
48 rization of the practitioner. Any person guilty of violating this para-
49 graph shall be guilty of a misdemeanor and upon conviction thereof shall

1 be incarcerated in the county jail for a term not to exceed one (1) year,
2 or punished by a fine of not more than one thousand dollars (\$1,000) or
3 by both such fine and incarceration.

4 (c) The possession or use of a legend drug or a precursor by any person
5 unless such person obtains such drug on the prescription or drug order
6 of a practitioner. Any person guilty of violating this paragraph shall
7 be guilty of a misdemeanor and upon conviction thereof shall be incar-
8 cerated in the county jail for a term not to exceed one (1) year, or pun-
9 ished by a fine of not more than one thousand dollars (\$1,000) or by both
10 such fine and incarceration.

11 (d) The failure to keep records as required by the board. Any person
12 guilty of violating this paragraph shall be guilty of a misdemeanor and
13 upon conviction thereof shall be incarcerated in the county jail for a
14 term not to exceed one (1) year, or punished by a fine of not more than
15 one thousand dollars (\$1,000) or by both such fine and incarceration.

16 (e) The refusal to make available and to accord full opportunity to
17 check any record, as required by the board. Any person guilty of violat-
18 ing this paragraph shall be guilty of a misdemeanor and upon conviction
19 thereof shall be incarcerated in the county jail for a term not to exceed
20 one (1) year, or punished by a fine of not more than one thousand dollars
21 (\$1,000) or by both such fine and incarceration.

22 (f) It is unlawful to:

23 (i) Obtain or attempt to obtain a legend drug or procure or at-
24 tempt to procure the administration of a legend drug by fraud, de-
25 ceit, misrepresentation or subterfuge; by the forgery or alter-
26 ation of a prescription, drug order, or of any written order; by
27 the concealment of a material fact; or by the use of a false name or
28 the giving of a false address.

29 (ii) Communicate information to a physician in an effort unlaw-
30 fully to procure a legend drug, or unlawfully to procure the ad-
31 ministration of any such drug. Any such communication shall not be
32 deemed a privileged communication.

33 (iii) Intentionally make a false statement in any prescription,
34 drug order, order, report or record required by this chapter.

35 (iv) For the purpose of obtaining a legend drug to falsely assume
36 the title of, or represent himself to be, a manufacturer, whole-
37 saler, pharmacist, physician, dentist, veterinarian or other per-
38 son.

39 (v) Make or utter any false or forged prescription or false drug
40 order or forged written order.

41 (vi) Affix any false or forged label to a package or receptacle
42 containing legend drugs. This subparagraph does not apply to law
43 enforcement agencies or their representatives while engaged in
44 enforcing state and federal drug laws.

45 (vii) Wholesale or retail any prescription or legend drug to any
46 person in this state not entitled by law to deliver such drug to
47 another.

48 (4) Provided however, that a veterinarian may dispense or deliver a
49 legend drug prescribed for an animal upon the prescription, drug order, or
50 prescription drug order of another veterinarian. The label shall comply

1 with the provisions of subsection (3) (a) (ii) of this section, and penalties
2 for violations of the provisions of this subsection shall be as provided in
3 this section for like violations by a pharmacist.

4 (5) The ultimate user of a legend drug who has lawfully obtained such
5 legend drug may deliver, without being registered, the legend drug to an-
6 other person for the purpose of disposal of the legend drug if the person re-
7 ceiving the legend drug for purposes of disposal is authorized under a state
8 or federal law or regulation to engage in such activity.

9 Every violation of subsection (3) (f) (i) through (vi) of this section
10 shall be a misdemeanor and any person convicted thereof shall be incarcer-
11 ated in the county jail for a term not to exceed one (1) year, or fined not
12 more than one thousand dollars (\$1,000), or punished by both such fine and
13 imprisonment. Any person violating subsection (3) (f) (vii) of this section
14 is guilty of a felony, and on conviction thereof shall be imprisoned in the
15 state penitentiary for a term not to exceed three (3) years, or punished by a
16 fine of not more than five thousand dollars (\$5,000), or by both such fine and
17 imprisonment.

18 SECTION 14. That Sections [54-1740](#) through [54-1748](#), Idaho Code, be, and
19 the same are hereby repealed.

20 SECTION 15. That Section 54-1761, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765,
23 Idaho Code:

24 (1) "Legend drug" has the same meaning as provided in section
25 54-1705(3~~1~~4), Idaho Code.

26 (2) "Medically indigent" means any person who is in need of a legend
27 drug and who is not eligible for medicaid or medicare, who cannot afford pri-
28 vate prescription drug insurance or who does not have income and other re-
29 sources available sufficient to pay for the legend drug.

30 (3) "Qualifying charitable clinic or center" means a community health
31 center as defined in section 39-3203, Idaho Code, and means a free medical
32 clinic as defined in section 39-7702, Idaho Code, acting in consultation
33 with a pharmacist licensed in the state of Idaho.

34 SECTION 16. That Section 54-4702, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 54-4702. DEFINITIONS. As used in this chapter:

37 (1) "Acupuncture" means that theory of health care developed from tra-
38 ditional and modern Oriental medical philosophies that employs diagnosis
39 and treatment of conditions of the human body based upon stimulation of spe-
40 cific acupuncture points on meridians of the human body for the promotion,
41 maintenance, and restoration of health and for the prevention of disease.
42 Therapies within the scope of acupuncture include manual, mechanical, ther-
43 mal, electrical and electromagnetic treatment of such specific indicated
44 points. Adjunctive therapies included in, but not exclusive to, acupuncture
45 include herbal and nutritional treatments, therapeutic exercise and other
46 therapies based on traditional and modern Oriental medical theory.

1 (2) "Board" means the Idaho state board of acupuncture.

2 (3) "NCCAOM" means "National Certification Commission for Acupuncture
3 and Oriental Medicine."

4 (4) "Practice of acupuncture" means the insertion of acupuncture needles
5 and use of similar devices and therapies, including application of moxibustion,
6 to specific indicated points on the skin of the human body as indicated
7 pursuant to traditional and modern theories of Oriental medicine. The
8 "practice of acupuncture" does not include:

9 (a) surgery; or

10 (b) prescribing, dispensing or administering any prescription drug or
11 legend drug as defined in section 54-1705(3~~4~~), Idaho Code.

12 SECTION 17. That Section 54-5110, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 54-5110. NATUROPATHIC MEDICAL FORMULARY COUNCIL ESTABLISHED. There
15 is hereby established a naturopathic medical formulary council, which is
16 separate and distinct from the board, to be composed of seven (7) members.
17 Two (2) members shall be naturopathic physicians licensed under this chapter,
18 appointed by the board of naturopathic medical examiners. Three (3)
19 members shall be pharmacists licensed under chapter 17, title 54, Idaho
20 Code, appointed by the board of naturopathic medical examiners from a list
21 of nominees provided by the Idaho state board of pharmacy. Two (2) members
22 shall be physicians licensed under chapter 18, title 54, Idaho Code,
23 appointed by the board of naturopathic medical examiners from a list of
24 nominees provided by the Idaho state board of medicine. The initial council
25 shall be appointed as follows: One (1) naturopathic physician shall be
26 appointed for a one (1) year term; one (1) physician licensed under chapter
27 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two
28 (2) year term; and two (2) pharmacists, one (1) naturopathic physician and
29 one (1) physician licensed under chapter 18, title 54, Idaho Code, shall be
30 appointed for a three (3) year term. Thereafter, the term of office shall
31 be three (3) years. A quorum shall consist of five (5) members and shall be
32 required for any vote to be taken. It shall be the duty of the naturopathic
33 medical formulary council to establish a formulary for use by naturopathic
34 physicians, and immediately upon adoption or revision of the formulary,
35 the council shall transmit the approved formulary to the board, which shall
36 adopt the formulary by temporary rule. The formulary will be reviewed annually
37 by the council, or at any time at the request of the board. The formulary
38 list may not go beyond the scope of prescription medicines and medical devices
39 covered by approved naturopathic medical education and training and existing
40 naturopathic medical formularies, or board-approved continuing education.
41 The naturopathic medical formulary shall not include medicines and devices
42 that are inconsistent with the training provided by approved naturopathic
43 medical colleges. Nothing herein shall allow a naturopathic physician to
44 dispense, administer or prescribe any prescription drug as defined in
45 section 54-1705(3~~4~~), Idaho Code, or medical device unless such prescription
46 drug or medical device is specifically included in the naturopathic medical
47 formulary.