



LEGISLATURE OF THE STATE OF IDAHO



Sixty-third Legislature

First Regular Session - 2015

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

1 RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE,  
 2 TO REVISE DEFINITIONS; AMENDING SECTION 37-2716, IDAHO CODE, TO REVISE  
 3 LANGUAGE RELATING TO REGISTRATION REQUIREMENTS, TO PROVIDE AN EXEMP-  
 4 TION AND TO PERMIT FEDERAL REGISTRANTS TO CONDUCT RESEARCH; AMENDING  
 5 SECTION 37-2717, IDAHO CODE, TO REVISE LANGUAGE RELATING TO REGISTRA-  
 6 TION, TO ALLOW CONSIDERATION OF FEDERAL REGISTRATION RESTRICTIONS AND  
 7 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2718, IDAHO CODE,  
 8 TO PROVIDE THE BOARD WITH ADDITIONAL DISCIPLINARY OPTIONS AND AUTHORITY  
 9 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2719, IDAHO  
 10 CODE, TO ADD RESTRICTION TO ACTIONS THAT REQUIRE AN ORDER TO SHOW CAUSE  
 11 AND TO REVISE THE FINING AUTHORITY OF THE BOARD; AND AMENDING SECTION  
 12 37-2720, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO RECORDS OF REGIS-  
 13 TRANTS AND TO MAKE TECHNICAL CORRECTIONS.  
 14

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

16 SECTION 1. That Section 37-2701, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18 37-2701. DEFINITIONS. As used in this chapter:

19 (a) "Administer" means the direct application of a controlled sub-  
 20 stance whether by injection, inhalation, ingestion, or any other means, to  
 21 the body of a patient or research subject by:

22 (1) A practitioner or, in his presence, by his authorized agent; or

23 (2) The patient or research subject at the direction and in the presence  
 24 of the practitioner.

25 (b) "Agent" means an authorized person who acts on behalf of or at the  
 26 direction of a manufacturer, distributor or dispenser. It does not include  
 27 a common or contract carrier, public warehouseman or employee of the carrier  
 28 or warehouseman.

29 (c) "Board" means the state board of pharmacy created in chapter 17, ti-  
 30 tle 54, Idaho Code, or its successor agency.

31 (d) "Bureau" means the drug enforcement administration, United States  
 32 department of justice, or its successor agency.

33 (e) "Controlled substance" means a drug, substance or immediate pre-  
 34 cursor in schedules I through VI of article II of this chapter.

35 (f) "Counterfeit substance" means a controlled substance which, or the  
 36 container or labeling of which, without authorization, bears the trademark,  
 37 trade name, or other identifying mark, imprint, number or device, or any  
 38 likeness thereof, of a manufacturer, distributor or dispenser other than the  
 39 person who in fact manufactured, distributed or dispensed the substance.

40 (g) "Deliver" or "delivery" means the actual, constructive, or at-  
 41 tempted transfer from one (1) person to another of a controlled substance,  
 42 whether or not there is an agency relationship.

1 (h) "Director" means the director of the Idaho state police.

2 (i) "Dispense" means to deliver a controlled substance to an ultimate  
3 user or research subject by or pursuant to the lawful order of a practi-  
4 tioner, including the ~~prescribing, administering,~~ packaging, labeling, or  
5 compounding necessary to prepare the substance for that delivery.

6 (j) "Dispenser" means a practitioner who dispenses.

7 (k) "Distribute" means to deliver other than by administering or dis-  
8 pensing a controlled substance.

9 (l) "Distributor" means a person who distributes.

10 (m) "Drug" means (1) substances recognized as drugs in the official  
11 United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
12 United States, or official National Formulary, or any supplement to any of  
13 them; (2) substances intended for use in the diagnosis, cure, mitigation,  
14 treatment or prevention of disease in man or animals; (3) substances, other  
15 than food, intended to affect the structure or any function of the body of man  
16 or animals; and (4) substances intended for use as a component of any article  
17 specified in clause (1), (2), or (3) of this subsection. It does not include  
18 devices or their components, parts, or accessories.

19 (n) "Drug paraphernalia" means all equipment, products and materi-  
20 als of any kind which are used, intended for use, or designed for use, in  
21 planting, propagating, cultivating, growing, harvesting, manufactur-  
22 ing, compounding, converting, producing, processing, preparing, testing,  
23 analyzing, packaging, repackaging, storing, containing, concealing, in-  
24 jecting, ingesting, inhaling, or otherwise introducing into the human body  
25 a controlled substance in violation of this chapter. It includes, but is not  
26 limited to:

27 (1) Kits used, intended for use, or designed for use in planting, prop-  
28 agating, cultivating, growing or harvesting of any species of plant  
29 which is a controlled substance or from which a controlled substance can  
30 be derived;

31 (2) Kits used, intended for use, or designed for use in manufacturing,  
32 compounding, converting, producing, processing or preparing con-  
33 trolled substances;

34 (3) Isomerization devices used, intended for use, or designed for use  
35 in increasing the potency of any species of plant which is a controlled  
36 substance;

37 (4) Testing equipment used, intended for use, or designed for use in  
38 identifying, or in analyzing the strength, effectiveness or purity of  
39 controlled substances;

40 (5) Scales and balances used, intended for use, or designed for use in  
41 weighing or measuring controlled substances;

42 (6) Diluents and adulterants, such as quinine hydrochloride, mannitol,  
43 mannite, dextrose and lactose, used, intended for use, or designed for  
44 use in cutting controlled substances;

45 (7) Separation gins and sifters used, intended for use, or designed for  
46 use in removing twigs and seeds from, or in otherwise cleaning or refin-  
47 ing, marijuana;

48 (8) Blenders, bowls, containers, spoons and mixing devices used,  
49 intended for use, or designed for use in compounding controlled sub-  
50 stances;

1 (9) Capsules, balloons, envelopes and other containers used, intended  
2 for use, or designed for use in packaging small quantities of controlled  
3 substances;

4 (10) Containers and other objects used, intended for use, or designed  
5 for use in storing or concealing controlled substances;

6 (11) Hypodermic syringes, needles and other objects used, intended  
7 for use, or designed for use in parenterally injecting controlled sub-  
8 stances into the human body;

9 (12) Objects used, intended for use, or designed for use in ingesting,  
10 inhaling, or otherwise introducing marijuana, cocaine, hashish, or  
11 hashish oil into the human body, such as:

12 (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic  
13 pipes with or without screens, permanent screens, hashish heads,  
14 or punctured metal bowls;

15 (ii) Water pipes;

16 (iii) Carburetion tubes and devices;

17 (iv) Smoking and carburetion masks;

18 (v) Roach clips: meaning objects used to hold burning material,  
19 such as a marijuana cigarette, that has become too small or too  
20 short to be held in the hand;

21 (vi) Miniature cocaine spoons, and cocaine vials;

22 (vii) Chamber pipes;

23 (viii) Carburetor pipes;

24 (ix) Electric pipes;

25 (x) Air-driven pipes;

26 (xi) Chillums;

27 (xii) Bonges;

28 (xiii) Ice pipes or chillers;

29 In determining whether an object is drug paraphernalia, a court or other  
30 authority should consider, in addition to all other logically relevant fac-  
31 tors, the following:

32 1. Statements by an owner or by anyone in control of the object concern-  
33 ing its use;

34 2. Prior convictions, if any, of an owner, or of anyone in control of the  
35 object, under any state or federal law relating to any controlled sub-  
36 stance;

37 3. The proximity of the object, in time and space, to a direct violation  
38 of this chapter;

39 4. The proximity of the object to controlled substances;

40 5. The existence of any residue of controlled substances on the object;

41 6. Direct or circumstantial evidence of the intent of an owner, or of  
42 anyone in control of the object, to deliver it to persons whom he knows,  
43 or should reasonably know, intend to use the object to facilitate a vi-  
44 olation of this chapter; the innocence of an owner, or of anyone in con-  
45 trol of the object, as to a direct violation of this chapter shall not  
46 prevent a finding that the object is intended for use, or designed for  
47 use as drug paraphernalia;

48 7. Instructions, oral or written, provided with the object concerning  
49 its use;

1 8. Descriptive materials accompanying the object which explain or de-  
2 pict its use;

3 9. National and local advertising concerning its use;

4 10. The manner in which the object is displayed for sale;

5 11. Whether the owner, or anyone in control of the object, is a legit-  
6 imate supplier of like or related items to the community, such as a li-  
7 censed distributor or dealer of tobacco products;

8 12. Direct or circumstantial evidence of the ratio of sales of the ob-  
9 ject(s) to the total sales of the business enterprise;

10 13. The existence and scope of legitimate uses for the object in the com-  
11 munity;

12 14. Expert testimony concerning its use.

13 (o) "Financial institution" means any bank, trust company, savings and  
14 loan association, savings bank, mutual savings bank, credit union, or loan  
15 company under the jurisdiction of the state or under the jurisdiction of an  
16 agency of the United States.

17 (p) "Immediate precursor" means a substance which the board has found  
18 to be and by rule designates as being the principal compound commonly used or  
19 produced primarily for use, and which is an immediate chemical intermediary  
20 used or likely to be used in the manufacture of a controlled substance, the  
21 control of which is necessary to prevent, curtail or limit manufacture.

22 (q) "Isomer" means the optical isomer, except as used in section  
23 37-2705(d), Idaho Code.

24 (r) "Law enforcement agency" means a governmental unit of one (1) or  
25 more persons employed full-time or part-time by the state or a political sub-  
26 division of the state for the purpose of preventing and detecting crime and  
27 enforcing state laws or local ordinances, employees of which unit are autho-  
28 rized to make arrests for crimes while acting within the scope of their au-  
29 thority.

30 (s) "Manufacture" means the production, preparation, propagation,  
31 compounding, conversion or processing of a controlled substance, and in-  
32 cludes extraction, directly or indirectly, from substances of natural  
33 origin, or independently by means of chemical synthesis, or by a combina-  
34 tion of extraction and chemical synthesis, and includes any packaging or  
35 repackaging of the substance or labeling or relabeling of its container,  
36 except that this term does not include the preparation or compounding of a  
37 controlled substance:

38 (1) By a practitioner as an incident to his administering, ~~or~~ dispens-  
39 ing or, as authorized by board rule, distributing of a controlled sub-  
40 stance in the course of his professional practice; or

41 (2) By a practitioner, or by his authorized agent under his supervi-  
42 sion, for the purpose of, or as an incident to, research, teaching, or  
43 chemical analysis and not for delivery.

44 (t) "Marijuana" means all parts of the plant of the genus Cannabis, re-  
45 gardless of species, and whether growing or not; the seeds thereof; the resin  
46 extracted from any part of such plant; and every compound, manufacture,  
47 salt, derivative, mixture, or preparation of such plant, its seeds or resin.  
48 It does not include the mature stalks of the plant unless the same are inter-  
49 mixed with prohibited parts thereof, fiber produced from the stalks, oil or  
50 cake made from the seeds or the achene of such plant, any other compound, man-

1 ufacture, salt, derivative, mixture, or preparation of the mature stalks,  
2 except the resin extracted therefrom or where the same are intermixed with  
3 prohibited parts of such plant, fiber, oil, or cake, or the sterilized seed  
4 of such plant which is incapable of germination. Evidence that any plant  
5 material or the resin or any derivative thereof, regardless of form, con-  
6 tains any of the chemical substances classified as tetrahydrocannabinols  
7 shall create a presumption that such material is "marijuana" as defined and  
8 prohibited herein.

9 (u) "Narcotic drug" means any of the following, whether produced di-  
10 rectly or indirectly by extraction from substances of vegetable origin, or  
11 independently by means of chemical synthesis, or by a combination of extrac-  
12 tion and chemical synthesis:

13 (1) Opium and opiate, and any salt, compound, derivative, or prepara-  
14 tion of opium or opiate.

15 (2) Any salt, compound, isomer, derivative, or preparation thereof  
16 which is chemically equivalent or identical with any of the substances  
17 referred to in clause 1, but not including the isoquinoline alkaloids of  
18 opium.

19 (3) Opium poppy and poppy straw.

20 (4) Coca leaves and any salt, compound, derivative, or preparation of  
21 coca leaves, and any salt, compound, isomer, derivative, or preparation  
22 thereof which is chemically equivalent or identical with any of these  
23 substances, but not including decocainized coca leaves or extractions  
24 of coca leaves which do not contain cocaine or ecgonine.

25 (v) "Opiate" means any substance having an addiction-forming or ad-  
26 diction-sustaining liability similar to morphine or being capable of  
27 conversion into a drug having addiction-forming or addiction-sustaining  
28 liability. It does not include, unless specifically designated as con-  
29 trolled under section 37-2702, Idaho Code, the dextrorotatory isomer of  
30 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does in-  
31 clude its racemic and levorotatory forms.

32 (w) "Opium poppy" means the plant of the species *Papaver somniferum* L.,  
33 except its seeds.

34 (x) "Peace officer" means any duly appointed officer or agent of a law  
35 enforcement agency, as defined herein, including, but not limited to, a duly  
36 appointed investigator or agent of the Idaho state police, an officer or em-  
37 ployee of the board of pharmacy, who is authorized by the board to enforce  
38 this chapter, an officer of the Idaho state police, a sheriff or deputy sher-  
39 iff of a county, or a marshal or policeman of any city.

40 (y) "Person" means individual, corporation, government, or governmen-  
41 tal subdivision or agency, business trust, estate, trust, partnership or as-  
42 sociation, or any other legal entity.

43 (z) "Poppy straw" means all parts, except the seeds, of the opium poppy,  
44 after mowing.

45 (aa) "Practitioner" means:

46 (1) A physician, dentist, veterinarian, scientific investigator, or  
47 other person licensed, registered or otherwise permitted to distrib-  
48 ute, dispense, conduct research with respect to or to administer a  
49 controlled substance in the course of his professional practice or re-  
50 search in this state;

1 (2) A pharmacy, hospital, or other institution licensed, registered,  
2 or otherwise permitted to distribute, dispense, conduct research with  
3 respect to or to administer a controlled substance in the course of its  
4 professional practice or research in this state.

5 (bb) "Prescribe" means a direction or authorization permitting an ulti-  
6 mate user to lawfully obtain or be administered controlled substances.

7 (cc) "Prescriber" means an individual currently licensed, registered  
8 or otherwise authorized to prescribe and administer controlled substances  
9 in the course of professional practice.

10 (eedd) "Production" includes the manufacture, planting, cultivation,  
11 growing, or harvesting of a controlled substance.

12 (deee) "Simulated controlled substance" means a substance that is not a  
13 controlled substance, but which by appearance or representation would lead  
14 a reasonable person to believe that the substance is a controlled substance.  
15 Appearance includes, but is not limited to, color, shape, size, and markings  
16 of the dosage unit. Representation includes, but is not limited to, repre-  
17 sentations or factors of the following nature:

18 (1) Statements made by an owner or by anyone else in control of the sub-  
19 stance concerning the nature of the substance, or its use or effect;

20 (2) Statements made to the recipient that the substance may be resold  
21 for inordinate profit; or

22 (3) Whether the substance is packaged in a manner normally used for il-  
23 licit controlled substances.

24 (eeff) "State," when applied to a part of the United States, includes  
25 any state, district, commonwealth, territory, insular possession thereof,  
26 and any area subject to the legal authority of the United States of America.

27 (ffgg) "Ultimate user" means a person who lawfully possesses a con-  
28 trolled substance for his own use or for the use of a member of his household  
29 or for administering to an animal owned by him or by a member of his house-  
30 hold.

31 (gghh) "Utility" means any person, association, partnership or cor-  
32 poration providing telephone and/or communication services, electricity,  
33 natural gas or water to the public.

34 SECTION 2. That Section 37-2716, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 37-2716. REGISTRATION REQUIREMENTS. (a) Every person who manufac-  
37 tures, distributes, ~~or prescribes, administers, dispenses, or conducts~~  
38 ~~research with any controlled substance within this state or who proposes to~~  
39 ~~engage in the manufacture, distribution, or dispensing of any controlled~~  
40 ~~substance within this state, must shall~~ obtain annually a registration is-  
41 sued by the board in accordance with this chapter and its rules. ~~A copy of~~  
42 ~~each registration issued shall be transmitted by the board to the director~~  
43 ~~of the Idaho state police.~~

44 (b) Every prescriber, except veterinarians, ~~must annually shall also~~  
45 register with the board to obtain online access to the controlled substances  
46 prescriptions database. ~~Such registration shall be completed upon renewal~~  
47 ~~for existing controlled substance registrants and at the time of registra-~~  
48 ~~tion for first-time registrants.~~

1 (c) Persons registered by the board under this chapter ~~to manufacture,~~  
 2 ~~distribute, dispense, or conduct research with controlled substances~~ may  
 3 possess, manufacture, distribute, dispense, prescribe, administer, or  
 4 conduct research with those substances to the extent authorized by their  
 5 registration and licensing entity and in conformity with the other provi-  
 6 sions of this ~~article~~ chapter.

7 (d) The following persons need not register and may lawfully possess  
 8 controlled substances under this chapter:

9 (1) An agent or employee of any person registered manufacturer, dis-  
 10 tributor, or dispenser of any controlled substance pursuant to this  
 11 chapter, if he is acting in the usual course of his business or employ-  
 12 ment;

13 (2) A common or contract carrier or warehouseman, or an employee  
 14 thereof, whose possession of any controlled substance is in the usual  
 15 course of business or employment;

16 (3) An ultimate user or a person in possession of any controlled sub-  
 17 stance pursuant to a lawful order of a practitioner or in lawful posses-  
 18 sion of a schedule V substance.

19 (e) The board may waive by rule the requirement for registration of cer-  
 20 tain ~~manufacturers, distributors, or dispensers~~ persons if it finds it con-  
 21 sistent with the public health and safety.

22 (f) A separate registration is required at each principal place of  
 23 business or professional practice where the applicant manufactures, dis-  
 24 tributes, ~~or administers,~~ dispenses, or conducts research with controlled  
 25 substances, except a separate registration is not required under this chap-  
 26 ter for practitioners engaging in research with nonnarcotic controlled  
 27 substances in schedules II through IV where the practitioner is already reg-  
 28 istered under this chapter in another capacity.

29 (g) Practitioners registered under federal law to conduct research  
 30 with schedule I substances may conduct research with schedule I substances  
 31 within this state upon registering in Idaho and furnishing the board with  
 32 evidence of the practitioner's federal registration.

33 (h) The board may inspect the establishment of a registrant or appli-  
 34 cant for registration in accordance with ~~the~~ this chapter and board rule.

35 SECTION 3. That Section 37-2717, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 37-2717. REGISTRATION. ~~(a)~~ The board shall register an applicant to  
 38 manufacture, ~~or prescribe, administer, dispense, distribute or conduct~~  
 39 research with controlled substances included in sections 37-2705, 37-2707,  
 40 37-2709, 37-2711 and 37-2713, Idaho Code, unless it determines that the is-  
 41 suance of that registration would be inconsistent with the public interest.  
 42 In determining the public interest, the board shall consider the following  
 43 factors:

44 (1a) ~~m~~Maintenance of effective controls against diversion of con-  
 45 trolled substances into other than legitimate medical, scientific, or  
 46 industrial channels;

47 (2b) ~~e~~Compliance with applicable state and local law;

48 (3c) ~~a~~Any convictions of the applicant under any federal and state laws  
 49 relating to any controlled substance;

1 (4d) ~~p~~Past experience in the manufacture, dispensing, prescribing, ad-  
 2 ministering, research or distribution of controlled substances, and the ex-  
 3 istence in the applicant's establishment of effective controls against di-  
 4 versions;

5 (5e) ~~f~~Furnishing by the applicant of false or fraudulent material in  
 6 any application filed under this act chapter;

7 (6f) Restriction, suspension or revocation of the applicant's federal  
 8 registration to manufacture, distribute, or dispense controlled substances  
 9 as authorized by federal law; and

10 (7g) a~~a~~Any other factors relevant to and consistent with the public  
 11 health and safety.

12 ~~(b) Registration under subsection (a) of this section does not entitle~~  
 13 ~~a registrant to manufacture and distribute controlled substances in sched-~~  
 14 ~~ule I or II other than those specified in the registration.~~

15 ~~(c) Practitioners must be registered to dispense any controlled sub-~~  
 16 ~~stances or to conduct research with controlled substances in schedules II~~  
 17 ~~through V if they are authorized to dispense or conduct research under the~~  
 18 ~~law of this state. The board need not require separate registration under~~  
 19 ~~this article for practitioners engaging in research with nonnarcotic con-~~  
 20 ~~trolled substances in schedules II through V where the registrant is already~~  
 21 ~~registered under this article in another capacity. Practitioners regis-~~  
 22 ~~tered under federal law to conduct research with schedule I substances may~~  
 23 ~~conduct research with schedule I substances within this state upon furnish-~~  
 24 ~~ing the board evidence of that federal registration.~~

25 ~~(d) Compliance by manufacturers and distributors with the provisions~~  
 26 ~~of the federal law respecting registration (excluding fees) entitles them to~~  
 27 ~~be registered under this act.~~

28 SECTION 4. That Section 37-2718, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 37-2718. ~~REVOCATION AND SUSPENSION OF REGISTRATION~~ DISCIPLINE. (a) A  
 31 registration under section 37-2717, Idaho Code, ~~to manufacture, distribute,~~  
 32 ~~or dispense a controlled substance~~ may be restricted, suspended or revoked  
 33 by the board upon a finding that the registrant:

34 (1) Has furnished false or fraudulent material information in any ap-  
 35 plication filed under this act;

36 (2) Has been found guilty of a felony or misdemeanor under any state or  
 37 federal law relating to any controlled substance; or

38 (3) Has had his federal registration restricted, suspended or revoked  
 39 ~~to manufacture, distribute, or dispense controlled substances;~~

40 (4) Has violated this chapter, any rule of the board promulgated under  
 41 ~~this chapter act~~, an order of the board or any federal regulation relat-  
 42 ing to controlled substances; provided, however, that no restriction,  
 43 revocation or suspension procedure be initiated under this paragraph  
 44 without the board first giving notice of the procedure to the state  
 45 licensing board with authority over the registrant's professional li-  
 46 cense.

47 (b) The notice required in ~~paragraph~~ subsection (a) (4) of this section  
 48 shall be given immediately in the event action is taken without an order to  
 49 show cause as allowed under section 37-2719(b), Idaho Code. In all other

1 cases, such notice shall be given as early as reasonably practicable without  
2 risking compromise of the board's investigation but no later than the ear-  
3 lier of:

4 (1) Issuance of an order to show cause under section 37-2719(a), Idaho  
5 Code; or

6 (2) Setting of a hearing for approval of a resolution of the matter  
7 through informal proceedings.

8 (c) Restriction, revocation or suspension procedures arising solely  
9 from "practice related issues" shall be referred by the board to such regis-  
10 trant's state licensing board.

11 (1) Upon such referral, the registrant's state licensing board shall  
12 commence such investigation of the referred matter as it deems neces-  
13 sary and shall take action upon the registrant's license or shall inform  
14 the board of pharmacy, in writing, that it has investigated the referred  
15 matter and has concluded that no action is necessary.

16 (2) For purposes of this section, the term "practice related issues"  
17 refers to issues involving questions regarding the professional con-  
18 duct of the registrant within the scope of the registrant's profession.

19 (d) The board may limit the revocation or suspension of a registration  
20 to the particular controlled substance with respect to which grounds for re-  
21 vocation or suspension exist.

22 (e) If the board restricts, suspends or revokes a registration, all  
23 pertinent controlled substances owned or possessed by the registrant at the  
24 time of the restriction or suspension or the effective date of the revocation  
25 order may be placed under seal. No disposition may be made of substances un-  
26 der seal until the time for taking an appeal has elapsed or until all appeals  
27 have been concluded unless a court, upon application therefor, orders the  
28 sale of perishable substances and the deposit of the proceeds of the sale  
29 with the court. Upon a revocation order becoming final, all controlled sub-  
30 stances may be forfeited to the state.

31 (f) The board shall promptly notify the bureau and the state licensing  
32 board with authority over the registrant's professional license of all or-  
33 ders restricting, suspending or revoking registration and all forfeitures  
34 of controlled substances.

35 (g) In the event a state licensing board with authority over a reg-  
36 istrant's professional license takes an action against the registrant in  
37 any fashion which suspends, restricts, limits or affects the registrant's  
38 ability to manufacture, distribute, ~~or~~ prescribe, administer, dispense, or  
39 conduct research with any controlled substance, the professional licensing  
40 board shall promptly notify the board of pharmacy of the action.

41 (1) Upon such action, the board of pharmacy shall be authorized to issue  
42 its order suspending, restricting, limiting or otherwise affecting the  
43 registrant's controlled substance registration in the same fashion as  
44 the professional licensing board action.

45 (2) The board of pharmacy order may be issued without further hearing or  
46 proceeding, but shall be subject to the effect of any reversal or modi-  
47 fication of the professional licensing board action by reason of any ap-  
48 peal or rehearing.

49 SECTION 5. That Section 37-2719, Idaho Code, be, and the same is hereby  
50 amended to read as follows:

1           37-2719. ORDER TO SHOW CAUSE. (a) Except as set forth in section  
2 37-2718(g), Idaho Code, before denying, restricting, suspending or revoking  
3 a registration, or refusing a renewal of registration, the board shall serve  
4 upon the applicant or registrant an order to show cause why the registration  
5 should ~~not~~ be restricted, denied, revoked, or suspended, or why the renewal  
6 should ~~not~~ be refused. The order to show cause shall contain a statement of  
7 the basis therefor and shall call upon the applicant or registrant to appear  
8 before the board at a time and place not less than thirty (30) days after the  
9 date of service of the order, but in the case of a denial or renewal of regis-  
10 tration the show cause order shall be served not later than thirty (30) days  
11 before the expiration of the registration. These proceedings shall be con-  
12 ducted in accordance with chapter 52, title 67, Idaho Code, without regard to  
13 any criminal prosecution or other proceeding. Proceedings to refuse renewal  
14 of registration shall not abate the existing registration which shall remain  
15 in effect pending the outcome of the administrative hearing.

16           (b) The board may suspend, without an order to show cause, any regis-  
17 tration simultaneously with the institution of proceedings under section  
18 37-2718, Idaho Code, or where renewal of registration is refused, if it finds  
19 that there is an imminent danger to the public health or safety which war-  
20 rants this action. The suspension shall continue in effect until the conclu-  
21 sion of the proceedings, including judicial review thereof, unless sooner  
22 withdrawn by the board or dissolved by a court of competent jurisdiction.

23           (c) In conjunction with a proceeding for denying, restricting, sus-  
24 pending or revoking a registration, or refusing a renewal of registration,  
25 and upon a finding of grounds for such denial, restriction, suspension,  
26 revocation or refusal to renew, the board may also impose an administrative  
27 fine not to exceed two thousand dollars (\$2,000) per occurrence and the costs  
28 of prosecution and administrative costs of bringing the action including,  
29 but not limited to, attorney's fees and costs and costs of hearing tran-  
30 scripts.

31           SECTION 6. That Section 37-2720, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33           37-2720. RECORDS OF REGISTRANTS. Persons registered ~~to manufacture,~~  
34 ~~distribute, or dispense controlled substances~~ under this act chapter shall  
35 keep records and maintain inventories in conformance with the ~~record keep-~~  
36 ~~ing~~ recordkeeping and inventory requirements of federal law and with any ad-  
37 ditional rules the board issues.

## STATEMENT OF PURPOSE

### RS 23196

This legislation will allow the Board to restrict and fine a controlled substance registrant, as current statutory authority is limited to suspension and revocation. The Board has entered into numerous consent agreements to restrict as such, as much discipline doesn't warrant penalties as stiff as suspension or revocation. The Board does not have statutory authority to enforce these Board orders, however, so this legislation would also grant the Board authority to do so. This proposed legislation also harmonizes and organizes many current inconsistencies, such as the list of activities that require registration and the use of terms such as "dispense." This proposed legislation also eliminates the statutory requirement of separate registrations for each location that a practitioner prescribes from.

### FISCAL NOTE

The fiscal impact of this legislation would be negligible.

#### Contact

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**Statement of Purpose/Fiscal Note**

**Bill No.**