

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO THE PRACTICE OF PHARMACY; AMENDING SECTION , IDAHO CODE,
TO ; .

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

SECTION 1: That Section 54-1717, Idaho Code, be, and the same is hereby amended to read as follows:

54-1717. RULES AND REGULATIONS. The board of pharmacy shall make, adopt, amend and repeal such rules and regulations as may be deemed necessary by the board, from time to time, for the proper administration and enforcement of this ~~act~~ chapter. Such rules and regulations shall be promulgated in accordance with the procedures specified in Chapter 52, Title 67, Idaho Code, the administrative procedures act.

SECTION 2: That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES — POWERS — AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this chapter and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

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

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

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

(4) (a) The board shall determine by rule the fees to be collected for the issuance and renewal of licenses and registrations.

(b) All fees or fines that shall be paid under the provisions of this chapter shall be paid over by the board to the treasurer of the state of Idaho and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state controller against said account. The state controller is

hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account.

(5) In addition to its annual appropriations, the board may solicit and receive, from parties other than the state, grants, moneys, donations and gifts of tangible and intangible property for any purpose consistent with this act, which may be specified as a condition of any grants, donations or gifts. Such moneys may be solicited or received provided:

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

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

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

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

(e) Periodic reports are made to the administrator, division of financial management, concerning the board's receipt and expenditure of such moneys.

(6) The board shall assign to each drug outlet under its jurisdiction a uniform state number.

(7) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the board.

~~(8) (a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.~~

~~(b) When a drug or device detained or embargoed under paragraph (a) of this subsection has been declared by such representative to be adulterated or misbranded, the board shall, as soon as practical thereafter, petition the judge of the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.~~

~~(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper~~

~~labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.~~

~~(d) It is the duty of the attorney general to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.~~

~~(9)~~ Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedure act.

~~(10)~~ (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of licenses, registrations or certifications authorized by this chapter, or the imposition of fines or reprimands on persons holding such licenses, certifications or registrations, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held for an order of the court requiring the person to appear before the court and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

~~(14)~~ The board may sponsor, participate in or conduct education, research or public service programs or initiatives to carry out the purposes of this act.

SECTION 3: That Section 54-1721, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) ~~Physicians, dentists, veterinarians, osteopaths or other p~~Practitioners of the healing arts who are licensed under the laws of this state and their agents or employees may deliver and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this state;

(b) Nonresident pharmacists who are actively licensed in their state of residence may practice pharmacy into Idaho if employed by or affiliated with and practicing for an Idaho-registered nonresident drug outlet. Only the ~~person in charge~~ PIC of a registered nonresident facility must be ~~licensed or~~ registered to practice into Idaho; ~~and~~

(c) Multistate pharmacists or multistate technicians permitted to engage in the multistate practice of pharmacy in or into Idaho pursuant to section 54-1723B, Idaho Code;

(d) A veterinary drug outlet, as defined in section 54-1705, Idaho Code, does not need to register with the board if the outlet does not dispense for outpatient use any controlled substances listed in chapter 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuromuscular paralyzing drugs or general anesthesia drugs.

~~(2e) Notwithstanding the provisions of subsection (1) of this section and any statute or rule to the contrary, persons who hold a valid and current license to practice practical or professional nursing in this state pursuant to sections 54-1407, 54-1408 and 54-1418, Idaho Code, and who are employed by one (1) Employees of the public health districts established under section 39-408, Idaho Code, shall be permitted to engage in the labeling and delivery of refills of the following prepackaged items when such items have been prescribed pursuant to a patient valid prescription drug order and in accordance with a formulary established by a licensed physician, licensed physician's assistant or licensed advanced practice nurse: the district health director; and~~

~~(a) Prenatal vitamins;~~

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

~~(c) Antiviral drugs approved by the United States centers for disease control and prevention for treatment of sexually transmitted infection; and~~

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

~~(f) Researchers may possess legend drugs for use in their usual and lawful research projects.~~

(32) It shall be unlawful for any person, not legally licensed or registered as a pharmacist, to take, use or exhibit the title of pharmacist or ~~the title of druggist or apothecary,~~ or any other title or description of like import.

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

SECTION 4: That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1723B, Idaho Code, and to read as follows:

54-1723B. MULTISTATE PRACTICE OF PHARMACY. Notwithstanding any provision of law to the contrary:

(1) As used in this section:

(a) "License" means a license, registration or other credential for the practice of pharmacy issued by the pharmacy licensing board of a state.

(b) "Multistate pharmacist" means a non-resident pharmacist licensed by a party state who is not otherwise licensed by the board.

(c) "Multistate practice of pharmacy" means the practice of pharmacy in or into Idaho, for a patient located in Idaho, by a multistate pharmacist or multistate technician, pursuant to the requirements of this section and the terms of a mutual recognition agreement.

(d) "Multistate technician" means a non-resident certified technician licensed by a party state who is not otherwise registered by the board.

(e) "Mutual recognition agreement" means a written agreement entered into between the board and a party state allowing for the multistate practice of pharmacy, subject to the requirements of this section and any other reasonable and supplemental contract terms negotiated by the board and the party state.

(f) "Party state" means any pharmacy licensing board of a state that has entered a mutual recognition agreement with the board.

(g) "Primary state of residence" means the pharmacist's declared primary state of residence, as evidenced by a valid state or federal identification card with a home address, or another form of identification as accepted by the Board.

(h) "State" means a state, territory or possession of the United States and the District of Columbia.

(2) The board may enter into mutual recognition agreements with one (1) or more party states provided that each party state:

(a) Has substantially similar requirements for pharmacist licensure, as required in section 54-1722, Idaho Code, or certified technician registration, as required by board rule, or both;

(b) Requires a fingerprint-based criminal history check prior to licensure that is substantially similar to the requirement in section 54-1718, Idaho Code; and

(c) Grants the same multistate practice privileges to Idaho pharmacists, certified technicians, or both, as Idaho grants to the party state's pharmacist, certified technicians, or both, under like circumstances and conditions.

(3) A pharmacist license, certified technician license, or both, issued by a party state will be recognized by the board as permitting the multistate practice of pharmacy in or into Idaho without a license or registration issued by the board provided the following conditions are met:

(a) The party state is the primary state of residence for the multistate pharmacist or multistate technician;

(b) The multistate pharmacist or multistate technician holds an active license issued by a party state that is not currently suspended, revoked, canceled or otherwise restricted or conditioned in any manner; and

(c) The requirements specified in paragraphs (a) or (b) of this subsection must be met at all times by any multistate pharmacist or multistate technician engaged in the multistate practice of pharmacy in or into Idaho.

(i) If such a multistate pharmacist or multistate technician no longer meets the requirements in paragraph (a) above, the multistate pharmacist or multistate technician must apply for licensure in the new primary state of residence prior to relocating to the new primary state of residence. If the pharmacist or technician's new primary state of residence is either Idaho or another party state, the pharmacist or technician may continue to practice until a new license is issued in the new primary state of residence.

(ii) If a multistate pharmacist or multistate technician no longer meets the requirements in paragraph (b) above, the multistate pharmacist or multistate technician must immediately cease engaging in the multistate practice of pharmacy in or into Idaho, unless the multistate pharmacist or multistate technician obtains a license or registration issued by the board.

(4) A multistate pharmacist or multistate technician engaged in the multistate practice of pharmacy in or into Idaho must comply with all laws governing the practice of pharmacy in the state of Idaho.

(5) If the board finds grounds for discipline exist, as set forth in section 54-1726, Idaho Code, or section 37-2718, Idaho Code, the board may impose upon the multistate practice privileges of a multistate pharmacist or multistate technician any of the penalties set forth in section 54-1728, Idaho Code, or section 37-2718, Idaho Code. The board's imposition of any penalties shall be limited to the multistate practice privileges of a multistate pharmacist or multistate technician. Only the party state shall have the power to revoke, suspend or otherwise discipline a license issued by the party state.

(6) The board shall promptly notify a party state of any board action taken against the multistate practice privileges of a multistate pharmacist or multistate technician licensed by the party state. The party state shall give the same priority and effect to reported conduct received from the board as it would if such conduct had occurred within the party state.

SECTION 5: That Section 54-1729, Idaho Code, be, and the same is hereby amended to read as follows:

54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or device outlets doing business in or into Idaho shall:

(a) If a nonresident, be licensed or registered and in good standing in the applicant's state of residence and have a PIC who is registered by the board;

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

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

~~(d) Have a PIC who is licensed or registered by the board, except manufacturers, wholesalers and other drug outlets in accordance with board rule.~~

(2) Each drug or device outlet shall apply for a certificate of registration or a license in one (1) of the following classifications:

(a) Retail pharmacy;

(b) Institutional facility;

(c) Manufacturer;

- (d) Wholesaler;
- (e) Prescriber drug outlet;
- (f) Central drug outlet;
- (g) Mail service pharmacy;
- (h) Limited service outlet.

(3) The board shall establish by rule under the powers granted to it under sections 54-1718 and 54-1719, Idaho Code, the criteria that each outlet with employees or personnel engaged in the practice of pharmacy must meet to qualify for registration or licensure in each classification designated in subsection (2) of this section. The board may issue various types of certificates with varying restrictions to such outlets designated in subsection (2) of this section where the board deems it necessary by reason of the type of outlet requesting a certificate.

(4) It shall be lawful for any outlet or facility to sell and distribute nonprescription drugs. Outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule will be adopted by the board under this chapter that requires the sale of nonprescription drugs by a pharmacist or under the supervision of a pharmacist or otherwise applies to or interferes with the sale and distribution of such medicines.

(5) If the regulatory board or licensing authority of the state in which a nonresident outlet is located fails or refuses to conduct an inspection or fails to obtain records or reports required by the board, upon reasonable notice to the nonresident outlet, the board may conduct an inspection. Nonresident outlets shall also pay the actual costs of the out-of-state inspection of the outlet, including the transportation, lodging and related expenses of the board's inspector.

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

(7) A successful applicant for registration under the provisions of this section shall comply with the board's laws and rules of this state unless compliance would violate the laws or rules in the state in which the registrant is located.

(8) Renewal shall be required annually and submitted to the board no later than December 31. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration or licensure.

SECTION 6: That Section 54-1730, Idaho Code, be, and the same is hereby amended to read as follows:

54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall specify by rule the registration procedures to be followed including, but not limited to, specification of forms for use in applying for such certificates of registration and times, places and fees for filing such application.

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

- (a) Ownership;
- (b) Location;

~~(e) Identity of pharmacist licensed or registered to practice in the state, who shall be the person in charge of the outlet, where one is required by this chapter, and such further information as the board may deem necessary.~~

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

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

SECTION 7: That Section 54-1731, Idaho Code, be, and the same is hereby amended to read as follows:

54-1731. NOTIFICATIONS. ~~(4)~~ All registered drug outlets shall report to the board of pharmacy the occurrence of any of the following changes:

~~(a1)~~ Permanent closing;

~~(b2)~~ Change of ownership, management, or location ~~or pharmacist in charge;~~

(3) Disasters, accidents and emergencies which affect the safe and continued operation of a drug outlet; and

~~(e4)~~ Any and all other matters and occurrences as the board may require by rules and regulations.

~~(2) Disasters, accidents and emergencies which may affect the strength, purity or labeling of drugs, medications, devices or other materials used in the diagnosis or the treatment of injury, illness and disease shall be immediately reported to the board.~~

SECTION 8: That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(6), Idaho Code.

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

(a) The sale, delivery or administration of any prescription drug or legend drug, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to sections 54-1733C and 54-1733D, Idaho Code, unless:

(i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony, and on conviction thereof shall be

- imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000) or by both such fine and imprisonment.
- (ii) In the case of a legend drug dispensed ~~by to a pharmacist or prescriber person~~, there is a label affixed to the immediate container in which such drug is dispensed. Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.
- (b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner, or in accordance with board rule. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.
- (c) The possession or use of a legend drug or a precursor, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to sections 54-1733C and 54-1733D, Idaho Code, by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.
- (d) The wholesale distribution of drugs or devices by a pharmacy except for:
- (i) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.
 - (ii) The sale of minimal quantities of prescription drugs to practitioners for office use.
 - (iii) The sale of a prescription drug for emergency medical reasons, but never to a wholesale distributor.
 - (iv) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees or a colicensed product, but never to a wholesale distributor.
 - (v) Other exemptions as permitted by federal law.
- (e) The failure to keep records as required by the board. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars (\$1,000) or by both such fine and incarceration.
- (f) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be

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

(g) It is unlawful to:

(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(ii) Communicate information to a ~~physician~~ practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

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

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

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

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

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

Every violation of paragraph (g)(i) through (vi) of this subsection shall be a misdemeanor, and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars (\$1,000), or punished by both such fine and imprisonment. Any person violating paragraph (g)(vii) of this subsection is guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

~~(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall be affixed pursuant to subsection (3)(a)(ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.~~

~~(5)~~ The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

SECTION 9: That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription drug order for a legend drug is valid only if it is issued by a prescriber for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses, if applicable, and identify underlying conditions and/or contraindications to the treatment.

(2) A prescriber who is otherwise authorized to perform any of the activities listed in this section may prescribe or perform any of the following activities for a patient with whom the prescriber does not have a prescriber-patient relationship under the following circumstances:

- (a) Writing initial admission orders for a newly hospitalized patient;
- (b) Writing a prescription drug order for a patient of another prescriber for whom the prescriber is taking call;
- (c) Writing a prescription drug order for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;
- (d) Writing a prescription drug order for a medication on a short-term basis for a new patient prior to the patient's first appointment;
- (e) Writing a prescription for an opioid antagonist pursuant to section 54-1733B, Idaho Code;
- (f) In emergency situations where the life or health of the patient is in imminent danger;
- (g) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- (h) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code, or an authorized entity pursuant to section 54-1733C, Idaho Code; and
- ~~(i) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention guidelines; and~~
- ~~(j) If a prescriber makes a diagnosis of an infectious disease in a patient, prescribe or dispense antimicrobials to an individual who has been exposed to the infectious person in accordance with clinical guidelines for chemoprophylaxis.~~

(3) Treatment, including issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose.

(4) A prescription drug order shall be issued only by a prescriber including a prescriber who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to prescribe legend drugs in the course of his professional practice as long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.

(5) The following acts shall be unlawful:

- (a) To knowingly issue an invalid prescription drug order for a legend drug;
- (b) To knowingly dispense a legend drug pursuant to an invalid prescription drug order; or

(c) To prescribe drugs to individuals without a prescriber-patient relationship, unless excepted in this section.

Such acts shall constitute unprofessional conduct and the prescriber or dispenser shall be subject to discipline according to the provisions of the Idaho Code chapter pursuant to which the prescriber or dispenser is licensed, certified or registered.

SECTION 10: That Section 54-1733A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. ~~(1)~~ A valid prescription drug order may be transmitted to a licensed pharmacy by the following means:

~~(a1)~~ By delivery of the original signed written prescription drug order or a digital image of the order in accordance with rules adopted by the board;

~~(b2)~~ Electronically by the prescriber or prescriber's agent either:

~~(a)~~ In compliance with the uniform electronic transactions act, chapter 50, title 28, Idaho Code; or

~~(b)~~ Electronically by a licensed practical or professional nurse in an institutional facility for a patient of that facility, via a secure, interoperable information technology system that exchanges data accurately, effectively and in compliance with applicable laws;

~~(d3)~~ Verbally by the prescriber, or prescriber's agent, ~~or a licensed practical or professional nurse for a patient of an institutional facility or for a hospice patient;~~ and

~~(e4)~~ Via facsimile by a prescriber, or prescriber's agent, ~~institutional facility or hospice agent,~~ provided that if the order was initially received verbally, the transmitted document shall include the name of the prescriber, the name of the licensed practical or professional nurse who received and transcribed the order and the name of the person who faxed the order.

~~(2)~~ In the event that there are no refills remaining on an existing prescription drug order and the pharmacist requests a new prescription drug order from the prescriber, the prescriber's agent, after obtaining prescriber authorization, may sign and return the request via facsimile as long as:

~~(a)~~ The request is generated from the pharmacy;

~~(b)~~ The request is for medication that the patient is currently taking;

~~(c)~~ There are no changes to the type of drug, its strength or directions for the continuation of therapy;

~~(d)~~ The prescriber's agent's transmission is received via facsimile from the prescriber's office; and

~~(e)~~ The request, which is subsequently transmitted back to the requesting pharmacy by the prescriber's agent, contains all components of a valid prescription drug order.

SECTION 11: That Section 54-1734, Idaho Code, be, and the same is hereby repealed.

SECTION 12: That Section 54-1735, Idaho Code, be, and the same is hereby repealed.

SECTION 13: That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to known and designated as Section 54-1762A, Idaho Code, and to read as follows:

54-1762A. DRUG DONATION FOR ANIMALS. Notwithstanding any other provision of law:

(1) An owner or legal caretaker of an animal may donate a drug that is dispensed for the animal, but will not be used by that animal, to a licensed veterinarian of a "veterinary medical facility," as that term is defined at section 54-2103, Idaho Code, if the veterinarian or facility chooses to accept the drug.

(2) A licensed veterinarian or a veterinary medical facility may accept and reissue drugs donated pursuant to this section, and from qualified donors listed in section 54-1762(4), Idaho Code, if:

- (a) The drug is not expired;
 - (b) There is no reason to believe the drug has been adulterated;
 - (c) The drug is not a controlled substance;
 - (d) The drug is not a compounded drug; and
 - (e) If a liquid, the drug is packaged in a single dose in an ampule or vial.
- (3) A licensed veterinarian or a veterinary medical facility may not resell the donated drug.
- (4) A licensed veterinarian or a veterinary medical facility may, however, reissue the

donated drug, without charge, for proper administration to an animal by:

- (a) Another client of the veterinarian or facility who appears to be financially unable to pay for the drug;
- (b) A non-profit animal shelter; or
- (c) A "pound," as that term is defined at section 25-3502, Idaho Code.

SECTION 14: That Section 54-1763, Idaho Code, be, and the same is hereby repealed.

SECTION 15: That Section 54-1770, Idaho Code, be, and the same is hereby amended to read as follows:

54-1770. NOTIFICATION OF DRUG PRODUCT SELECTION FOR EPILEPSY AND SEIZURE DRUGS. The provisions of this section shall be null, void and of no force and effect on and after July 1, 2021.

(1) In this section:

(a) "Anti-epileptic drug" means:

- (i) A drug used for the treatment of epilepsy; or
- (ii) A drug used to treat or prevent seizures.

(b) "Drug product selection" means the selection of a therapeutically equivalent drug, including a generic version for the prescribed brand, a branded version for the prescribed generic, a generic version by one (1) manufacturer for a generic version by a different manufacturer.

(c) "Epilepsy" means a neurological condition characterized by recurrent seizures.

(d) "Seizure" means an acute clinical change secondary to a brief disturbance in the electrical activity of the brain.

(2) When a prescriber has specified that a drug is prescribed for the treatment of epilepsy or seizures, pharmacy personnel who perform drug product selections shall:

- (a) Notify the prescriber of such drug product selection via facsimile, telephone message or any other appropriate means to the prescriber's place of business; and
 - (b) Provide the patient or the patient's representative with notification of the selection.
- (3) Nothing in this section shall delay the dispensing of a valid prescription for an anti-epileptic drug.

STATEMENT OF PURPOSE

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This bill updates and modernizes provisions of the Pharmacy Practice Act, while removing obsolete and outdated sections. The bill also establishes a multistate pharmacy license, which aims to increase the portability and mobility of practice across state lines as has been accomplished in other health professions.

FISCAL NOTE

This legislation will have no fiscal impact on the General Fund; the creation of the multistate license is expected to be revenue neutral for the Board of Pharmacy's dedicated fund based on the experience of similar Idaho health professional licensing boards, while saving individual licensees both time and fees. The enabling of a drug donation program for veterinary products is expected to save money for animal owners and caretakers.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).