LEGISLATURE OF THE STATE OF IDAHO

Sixty-seventh Legislature Second Regular Session – 2021

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO ADDRESS THE DESCHEDULING OF FDA APPROVED CANNABIDIOL, AMENDING SECTION 37-2705, AMENDING SECTION 37-2707, AMENDING SECTION 37-2711, AMENDING SECTION 37-2713 IDAHO CODE, TO REVISE THE LISTS OF SCHEDULE I, II, IV AND V CONTROLLED SUBSTANCES.

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

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

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

(a) "Administer" means the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

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

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

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

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

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

(e) "Controlled substance" means a drug, substance or immediate precursor in schedules I through VI of article II of this chapter.

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

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

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

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

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

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

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

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

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

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

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

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

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

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

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

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

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

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

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

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
(vi) Miniature cocaine spoons, and cocaine vials;
(vii) Chamber pipes;
(viii) Carburetor pipes;
(ix) Electric pipes;
(x) Air-driven pipes;
(xi) Chillums;
(xii) Bongs;
(xiii) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this chapter;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

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

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

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

(r) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full-time or part-time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(s) "Manufacture" means the production, preparation, propagation, compounding,

conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) By a practitioner as an incident to his administering, dispensing or, as authorized by board rule, distributing of a controlled substance in the course of his professional practice; or

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

(t) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein. It does not include drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1% (w/w) residual tetrahydrocannabinols.

(u) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

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

(3) Opium poppy and poppy straw.

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

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

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

(x) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including, but not limited to, a duly appointed investigator or agent of the Idaho state police, an officer or employee of the board of pharmacy, who is authorized by the board to

enforce this chapter, an officer of the Idaho state police, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(y) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

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

(aa) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

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

(bb) "Prescribe" means a direction or authorization permitting an ultimate user to lawfully obtain or be administered controlled substances.

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

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

(ee) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

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

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

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

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

(gg) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(hh) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 2: That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705.SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of

isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-pip-eridinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(4) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide;

(5) Allylprodine;

(6) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);

(7) Alphameprodine;

(8) Alphamethadol;

(9) Alpha-methylfentanyl;

(10) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-pip-eridinyl]-N-phenylpropanamide);

(11) Benzethidine;

(12) Betacetylmethadol;

(13)Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperid-inyl]-N-phenylpropanamide);

(14) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide);

(15) Betameprodine;

(16) Betamethadol;

(17) Betaprodine;

(18) Clonitazene;

(19) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);

(20) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

(21) Dextromoramide;

(22) Diampromide;

(23) Diethylthiambutene;

(24) Difenoxin;

(25) Dimenoxadol;

(26) Dimepheptanol;

(27) Dimethylthiambutene;

(28) Dioxaphetyl butyrate;

(29) Dipipanone;

(30) Ethylmethylthiambutene;

(31) Etonitazene;

(32) Etoxeridine;

(33) Fentanyl-related substances. "Fentanyl-related substances" means any substance not otherwise listed and for which no exemption or approval is in effect under section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. 355, and that is structurally related to fentanyl by one (1) or more of the following modifications:

i. Replacement of the phenyl portion of the phenethyl group by any monocycle,

whether or not further substituted in or on the monocycle;

ii. Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino, or nitro groups;

iii. Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;

iv. Replacement of the aniline ring with any aromatic monocycle, whether or not further substituted in or on the aromatic monocycle; and/or

v. Replacement of the N-propionyl group by another acyl group;

(34) 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

(35) Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide);

(36) Furethidine;

(37) Hydroxypethidine;

(38) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide);

(39) Ketobemidone;

(40) Levomoramide;

(41) Levophenacylmorphan;

(42) 3-Methylfentanyl;

(43)3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-pip-eridinyl]-N-phenylpropanamide);

(44) Morpheridine;

(45) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(46) MT-45 (1-cyclohexyl-4- (1,2-diphenylethyl)piperazine);

(47) Noracymethadol;

(48) Norlevorphanol;

(49) Normethadone;

(50) Norpipanone;

(51) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl) acetamide);

(52) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide);

(53) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);

(54) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phen-ethyl)-4-piperidinyl] propanamide);

(55) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);

(56) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(57) Phenadoxone;

(58) Phenampromide;

(59) Phenomorphan;

(60) Phenoperidine;

(61) Piritramide;

(62) Proheptazine;

(63) Properidine;

(64) Propiram;

(65) Racemoramide;

(66) Tetrahydrofuranyl fentanyl (N-(1-phenethylpiperidine-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
(67) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piper-idinyl]-propanamide);
(68) Tilidine;
(69) Trimeperidine;
(70) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide);
(71) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide).

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(d) Hallucinogenic substances. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):
(1) Dimethoxyphenethylamine, or any compound not specifically excepted or listed in another schedule that can be formed from dimethoxyphenethylamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as DOB, DOC, 2C-B, 25B-NBOMe;
(2) Methoxyamphetamine or any compound not specifically excepted or listed in another schedule that can be formed from methoxyamphetamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as PMA and DOM;

(3) 5-methoxy-3,4-methylenedioxy-amphetamine;
(4) 5-methoxy-N,N-diisopropyltryptamine;
(5) Amphetamine or methamphetamine with a halogen substitution on the benzyl ring, including compounds such as fluorinated amphetamine and fluorinated methamphetamine;
(6) 3,4-methylenedioxy amphetamine;
(7) 3,4-methylenedioxymethamphetamine (MDMA);
(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-et-hyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-et-hyl MDA, MDE, MDEA);
(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hyd-roxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hyd-roxy MDA);
(10) 3,4,5-trimethoxy amphetamine;
(11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-(dimethylamino)ethyl]indole and 5-MeO-DMT);
(12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-am-inobutyl) indole);
(13) Alpha-methyltryptamine;
(14) Bufotenine;
(15) Diethyltryptamine (DET);
(16) Dimethyltryptamine (DMT);
(17) Ibogaine;
(18) Lysergic acid diethylamide;
(19) Marihuana;
(20) Mescaline;
(21) Parahexyl;
(22) Peyote;
(23) N-ethyl-3-piperidyl benzilate;
(24) N-methyl-3-piperidyl benzilate;
(25) Psilocybin;
(26) Psilocyn;
(27) Tetrahydrocannabinols or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure such as the following:

i. Tetrahydrocannabinols:

a. Δ^{1} cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in either a soft gelatin capsule or in an oral solution in a drug product approved by the U.S. Food and Drug Administration.

b. Δ^{6} cis or trans tetrahydrocannabinol, and their optical isomers.

c. $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

d. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-o1)], also known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric isomers (HU211 or dexanabinol).

ii. The following synthetic drugs:

a. Any compound structurally derived from (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobutan-2-yl) carboxamide by substitution at the nitrogen atoms of the indole ring or carboxamide to any extent, whether or not further substituted in or on the indole ring to any extent, whether or not substituted to any extent in or on the cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the ring may include, but is not limited to, heteroatoms such as nitrogen, sulfur and oxygen).

b. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1 H-indazole-3-carboxamide (5F-AB-PINACA).

c. 1-(1.3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (N-ethylpentylone, ephylone).

d. 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1 H-indazole-3-carboxamide (4-cn-cumyl-BUTINACA).

e. Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3carboxamido)-3,3-dimethylbutanoate * (5f-edmbpinaca).

f. (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3tetramethylcyclopropyl)methanone (fub-144).

g. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (5f-cumyl-pinaca; sgt25).

h. (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1 H-pyrrolo[2.3-B]pyridine-3-carboxamide(5fcumyl-P7AICA).

i. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (MMB-CHMICA, AMB-CHMICA).

j. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (MDMB-CHMICA)

k. Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido-3,3-dimethylbutanoate (MDMB-FUBINACA)

l. Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (5F-MDMBPICA ~~f mdmbpica~~).

m. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-ADB, 5FMDMB-PINACA)

n. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5FAMB)

o. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (ADB-FUBINACA)

p.~~k.~~ N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole3-carboxamide (fub-akb48; fub-apinaca).

q. N-(adamantan-1-yl)-1-(5-fluoropentyl)1H-indazole-3-carboxamide (5F-APINACA, 5F-AKB48)

r.~~l.~~ Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (NM2201; CBL2201).

s.~~m.~~ Any compound structurally derived from 3-(1-naphthoyl)pyrrole by

substitution at the nitrogen atom of the pyrrole ring to any extent, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

t.~~n.~~ Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring to any extent, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

u.~~o.~~ Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

v.~~p.~~ Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring to any extent, whether or not substituted in the cyclohexyl ring to any extent.

w.~~q.~~ Any compound structurally derived from 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

x.~~r.~~ [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone (WIN-55,212-2).

y.~~s.~~ 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-243).

z.~~t.~~ [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate (CP 50,5561).

(28) Ethylamine analog of phencyclidine:N-ethyl-1-phenylcy-clohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcy-clohexyl) ethylamine, cyclohexamine, PCE;

(29) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohex-yl) -pyrrolidine, PCPy, PHP;

(30) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cy-clohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(32) Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Gamma hydroxybutyric acid (some other names include GHB; gam-ma-hydroxybutyrate, 4-hydroxybutyrate; 4-hyroxybutanoic acid; sod-ium oxybate; sodium oxybutyrate);

(2) Flunitrazepam (also known as "R2," "Rohypnol");

(3) Mecloqualone;

(4) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following

substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-ox-azoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-aminopropiophenone, 2-amino-propiophenone and norephedrone);

(3) Substituted cathinones. Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

i. By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents;

ii. By substitution at the 3-position with an acyclic alkyl substituent;

iii. By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(4) Alpha-pyrrolidinoheptaphenone* (PV8);

(5) Alpha-pyrrolidinohexanophenone* (a-php);

(6) 4-chloro-alpha-pyrrolidinovalerophenone* (4chloro-a-pvp);

(7) Fenethylline;

(8) Methcathinone (some other names: 2-(methyl-amino)-propioph-enone, alpha-(methylamino)-propiophenone, N-methylcathin-one, AL-464, AL-422, AL-463 and UR1423);

(9) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-meth-yl-5-phenyl-2-oxazolamine];

(10) 4-methyl-alpha-ethylaminopentiophenone* (4meap);

(11) 4'-methyl-alpha-pyrrolidinohexiophenone* (mphp);

(12) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);

(13) N-ethylamphetamine;

(14) N-ethylhexedrone*;

(15) N,N-dimethylamphetamine (also known as: N,N-al-pha-trimethyl-benzeneethanamine).

SECTION 3: That Section 37-2707, Idaho Code, be, and the same is hereby amended to read as follows:

37-2707.SCHEDULE II. (a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate,

excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, naltrexone and their respective salts, but including the following:

1. Raw opium;
2. Opium extracts;
3. Opium fluid extracts;
4. Powdered opium;
5. Granulated opium;
6. Tincture of opium;
7. Codeine;
8. Dihydroetorphine;
9. Diprenorphine;
10. Ethylmorphine;
11. Etorphine hydrochloride;
12. Hydrocodone;
13. Hydromorphone;
14. Metopon;
15. Morphine;
16. Oripavine;
17. Oxycodone;
18. Oxymorphone;
19. Tapentadol;
20. Thebaine.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but shall not include the following:

1. Decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine; or ecgonine; or
2. [^{123}I]ioflupane.

(5) Benzoylecgonine.

(6) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and salts of optical isomers).

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk Dextropropoxyphene (nondosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;
(8) Diphenoxylate;
(9) Fentanyl;
(10) Isomethadone;
(11) Levo-alphacetylmethadol (also known as levo-alpha-acetylmet-hadol, levomethadyl acetate, LAAM);
(12) Levomethorphan;
(13) Levorphanol;
(14) Metazocine;
(15) Methadone;
(16) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(17) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
(18) Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide)
(19) Pethidine (meperidine);
(2019) Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenyl-piperidine;
(210) Pethidine -- Intermediate -- B, ethyl-4-phenylpiperid-ine-4-carboxylate;
(221) Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperid-ine-4-carboxylic acid;
(232) Phenazocine;
(243) Piminodine;
(254) Racemethorphan;
(265) Racemorphan;
(276) Remifentanil;
(287) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Lisdexamfetamine;
(3) Methamphetamine, its salts, isomers, and salts of its isomers;
(4) Phenmetrazine and its salts;
(5) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Amobarbital;
(2) Glutethimide;
(3) Pentobarbital;
(4) Phencyclidine;
(5) Secobarbital.

(f) Hallucinogenic substances.
(1) Nabilone (another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hy-droxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one) (21 CFR 1308.12 (f)).

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(a) Anthranilic acid;
(b) Ephedrine;
(c) Lead acetate;
(d) Methylamine;
(e) Methyl formamide;
(f) N-methylephedrine;
(g) Phenylacetic acid;
(h) Phenylacetone;
(i) Phenylpropanolamine;
(j) Pseudoephedrine.

Except that any combination or compound containing ephedrine, or any of its salts and isomers, or phenylpropanolamine or its salts and isomers, or pseudoephedrine, or any of its salts and isomers which is prepared for dispensing or over-the-counter distribution is not a controlled substance for the purpose of this section, unless such substance is possessed, delivered, or possessed with intent to deliver to another with the intent to manufacture methamphetamine, amphetamine or any other controlled substance in violation of section 37-2732, Idaho Code. For purposes of this provision, the requirements of the uniform controlled substances act shall not apply to a manufacturer, wholesaler or retailer of over-the-counter products containing the listed substances unless such person possesses, delivers, or possesses with intent to deliver to another the over-the-counter product with intent to manufacture a controlled substance.

(2) Immediate precursors to phencyclidine (PCP):

(a) 1-phenylcyclohexylamine;
(b) 1-piperidinocyclohexanecarbonitrile (PCC).

(3) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

SECTION 4: That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

37-2711.SCHEDULE IV. (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl- 3-methyl-2-propionoxybutane).

(3) 2- [(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol (including tramadol), including its salts, optical and geometric isomers, and salts of isomers.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Alfaxalone 5[alpha]-pregnan-3[alpha]-ol-11,20-dione;
(2) Alprazolam;
(3) Barbital;
(4) Bromazepam;
(5) Camazepam;
(6) Carisoprodol;
(7) Chloral betaine;
(8) Chloral hydrate;
(9) Chlordiazepoxide;
(10) Clobazam;
(11) Clonazepam;
(12) Clorazepate;
(13) Clotiazepam;
(14) Cloxazolam;
(15) Delorazepam;
(16) Diazepam;
(17) Dichloralphenazone;
(18) Estazolam;
(19) Ethchlorvynol;
(20) Ethinamate;
(21) Ethyl loflazepate;
(22) Fludiazepam;
(23) Flurazepam;
(24) Fospropofol;
(25) Halazepam;
(26) Haloxazolam;
(27) Ketazolam;
(28) Loprazolam;
(29) Lorazepam;
(30) Lormetazepam;
(31) Mebutamate;
(32) Medazepam;
(33) Meprobamate;
(34) Methohexital;
(35) Methylphenobarbital (mephobarbital);
(36) Midazolam;
(37) Nimetazepam;
(38) Nitrazepam;
(39) Nordiazepam;
(40) Oxazepam;
(41) Oxazolam;
(42) Paraldehyde;

(43) Petrichloral;
(44) Phenobarbital;
(45) Pinazepam;
(46) Prazepam;
(47) Quazepam;
(48) Suvorexant;
(49) Temazepam;
(50) Tetrazepam;
(51) Triazolam;
(52) Zaleplon;
(53) Zolpidem;
(54) Zopiclone.

(d) Fenfluramine -- Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Dexfenfluramine;
(2) Fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Lorcaserin;
(6) Mazindol;
(7) Mefenorex;
(8) Modafinil;
(9) Pemoline (including organometallic complexes and chelates thereof);
(10) Phentermine;
(11) Pipradrol;
(12) Sibutramine;
(13) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(f) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine;
(2) Butorphanol (including its optical isomers);
(3) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.

(g) The board may except by rule any compound, mixture, or preparation containing any

depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5: That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713.SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts);

(2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;

(3) Lacosamide;

(4) Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl)pyridine-2-yl-benzamide];

(5) Pregabalin;

(6~~5~~) Pyrovalerone.

~~(e) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the U.S. food and drug administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3- benzenediol) derived from~~

~~cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.~~

LEGISLATURE OF THE STATE OF IDAHO

Sixty-seventh Legislature Second Regular Session – 2021

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO PHARMACY PRACTICE; AMENDING SECTION 54-1704, IDAHO CODE, TO REVISE PRACTICE OF PHARMACY DEFINITION; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1707, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1708, IDAHO CODE, TO REVISE PRONOUNS; AMENDING SECTION 54-1710, IDAHO CODE TO SPELL OUT A FIGURE; AMENDING SECTION 54-1713, IDAHO CODE, TO REVISE PRONOUNS; AMENDING SECTION 54-1714, IDAHO CODE, TO REVISE PRONOUNS; AMENDING SECTION 54-1715, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1718, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1719, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1720, IDAHO CODE TO UPDATE TERMINOLOGY AND REVISE PRONOUNS; AMENDING SECTION 54-1721, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1722, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1723, IDAHO CODE TO REVISE QUALIFICATIONS FOR LICENSURE BY RECIPROCITY AND TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1723A, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1723B, IDAHO CODE TO UPDATE TERMINOLOGY; REPEALING SECTION 54-1724, IDAHO CODE; AMENDING SECTION 54-1726, IDAHO CODE, TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1727, IDAHO CODE, TO REVISE CONFIDENTIALITY OF PRESCRIPTIONS AND PATIENT INFORMATION; AMENDING SECTION 54-1728, IDAHO CODE, TO REVISE PENALTIES AND REINSTATEMENT; AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE REGISTRATION AND LICENSURE OF FACILITIES; ADDING SECTION 54-1729A, IDAHO CODE, TO RELOCATE WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENT -- MINIMUM REQUIREMENTS FOR LICENSURE; AMENDING SECTION 54-1730, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1731, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1732, IDAHO CODE TO UPDATE TERMINOLOGY AND REVISE PRONOUNS; AMENDING SECTION 54-1733, IDAHO CODE TO REVISE PRONOUNS; AMENDING SECTION 54-1733A, IDAHO CODE TO UPDATE TERMINOLOGY; AMENDING SECTION 54-1733B, IDAHO CODE, TO REVISE REQUIREMENTS FOR PRESCRIBING AND DISPENSING OPIOID ANTAGONISTS; AMENDING SECTION 54-1733D, IDAHO CODE, TO REVISE REQUIREMENTS FOR PRESCRIBING AND ADMINISTERING EPINEPHRINE AUTO-INJECTORS; AMENDING SECTION 54-1736, IDAHO CODE TO UPDATE TERMINOLOGY; ADDING SECTION 54-1737A, IDAHO CODE, TO RELOCATE RESTRICTIONS ON

TRANSACTIONS; AMENDING SECTION 54-1739, IDAHO CODE, TO UPDATE TERMINOLOGY; REPEALING SECTION 54-1751; REPEALING SECTION 54-1752 REPEALING SECTION 54-1753; REPEALING SECTION 54-1754; REPEALING SECTION 54-1757; REPEALING SECTION 54-1758; REPEALING SECTION 54-1759; AMENDING SECTION 54-1762A, IDAHO CODE, TO REVISE DRUG DONATION FOR ANIMALS; AMENDING SECTION 54-1764, IDAHO CODE TO UPDATE TERMINOLOGY; AND REPEALING SECTION 54-1765.

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

SECTION 1: That Section 54-1704, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) The interpretation, evaluation and dispensing of prescription drug orders;

(2) Participation in drug and device selection, drug administration, prospective and retrospective drug reviews and drug or drug-related research;

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

(4) The responsibility for:

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

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

(c) The offering or performing of those acts, services, operations or transactions necessary to the conduct, operation, management and control of pharmacy;

(5) The prescribing of:

~~(a) Agents for active immunization when prescribed for susceptible persons six (6) years of age or older for the protection from communicable disease; and~~

(a~~b~~) Drugs, drug categories, or devices that are prescribed in accordance with the product's federal food and drug administration-approved labeling and that are limited to conditions that:

(i) Do not require a new diagnosis;

(ii) Are minor and generally self-limiting;

(iii) Have a test that is used to guide diagnosis or clinical decision-making and are waived under the federal clinical laboratory improvement amendments of 1988; or

(iv) In the professional judgment of the pharmacist, threaten the health or safety of the patient should the prescription not be immediately dispensed. In such cases, only sufficient quantity may be provided until the patient is able to be seen by another provider.

The board shall not adopt any rules authorizing a pharmacist to prescribe a controlled drug~~, compounded drug or biological product~~.

SECTION 2: That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705.DEFINITIONS. In this chapter:

(1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Central drug outlet" means a resident or nonresident pharmacy, drug outlet or business entity employing or contracting pharmacists to perform off-site pharmacy services.

(3) "Certificate" means a license or registration issued by the Board unless specifically stated.

(4) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of such drugs to a group of chain pharmacies that have the same common ownership and control.

(5) "Co-licensed partner or product" means an instance where two (2) or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with the federal food and drug administration's implementation of the prescription drug marketing act.

(6) "Compounding" means the practice in which a pharmacist, a prescriber, or, in the case of an outsourcing facility, a person under the supervision of a pharmacist combines, mixes or alters ingredients of a drug to create a medication tailored to the needs of an individual patient.

(74) "Counseling" or "counsel" means the effective communication by the pharmacist of information, as set out in this chapter, to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescription drugs and devices.

(85) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

(96) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar related article including any component part or accessory which is:

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

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

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

(107) "Dispense" or "dispensing" means the preparation and delivery of a drug pursuant to a lawful prescription drug order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription.

(118) "Distribute" means the delivery of a drug other than by administering or dispensing.

(129) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

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

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

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

(1310) "Drug outlet" means a resident or nonresident pharmacy, business entity or other facility where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or

devices in or into Idaho.

(14~~11~~) "Institutional drug order" means a prescription drug order issued in the unique form and manner permitted for a patient or resident of an institutional facility or as permitted for other purposes as defined in rule. Unless specifically differentiated, state law applicable to a prescription drug order is also applicable to an institutional drug order.

(15~~12~~) "Institutional facility" means a facility for which its primary purpose is to provide a physical environment for patients to obtain health care services and in which patients spend a majority of their time, as may be further defined by board rule.

(16~~13~~) "Internship" means a practical experience program under the supervision of a preceptor.

(17~~14~~) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(18~~15~~) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law.

(19~~16~~) "Limited service outlet" means a resident or nonresident pharmacy, facility or business entity that is subject to registration by the board, pursuant to section 54-1729, Idaho Code, and has employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices as may be further defined by board rule but is not a ~~retail~~ community pharmacy, institutional facility, manufacturer, wholesaler, ~~nonresident~~ central drug outlet or mail service pharmacy.

(20~~17~~) "Mail service pharmacy" means a nonresident pharmacy that ships, mails or delivers by any lawful means a dispensed legend drug to residents in this state pursuant to a legally issued prescription drug order and ensures the provision of corresponding related pharmaceutical care services required by law.

(21~~18~~) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for their ~~his~~ own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to their ~~his~~ administering, dispensing or, as authorized by board rule, distributing of a drug in the course of their ~~his~~ professional practice; or

(b) By a practitioner or by their ~~his~~ authorization under their ~~his~~ supervision for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(22~~19~~) "Manufacturer" means a person, who is licensed or approved by the federal food and drug administration to engage in the manufacture of drugs, including a co-licensed partner or affiliate of that person, who ~~by~~ compounds~~ing~~, cultivates~~ing~~, derives, harvests~~ing~~, mixes~~ing~~ or by other process produces, or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(2320) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription drug order and which are prepackaged for use by the consumer and labeled in accordance with state and federal law.

(2421) "Nonresident" means a person or business entity located in the District of Columbia or a state or territory other than Idaho that practices pharmacy including, but not limited to, pharmaceutical care services into Idaho.

(2522) "Off-site pharmacy services" means services provided by a central drug outlet or an off-site pharmacist or technician. Services may include, but are not limited to: processing a request from another pharmacy to fill, refill or dispense a prescription drug order; performance of processing functions; or providing cognitive or pharmaceutical carse services. Each function may be performed by the same or different persons and at the same or different locations.

(2623) "Outsourcing facility" means a pharmacy or facility that is registered by the United States food and drug administration pursuant to 21 U.S.C. 353b and either registered or endorsed by the board.

(2724) "Person" means an individual, corporation, partnership, association or any other legal entity.

(2825) "Person in charge" or "PIC" means a person whose qualifications, responsibilities, and reporting requirements are defined in rule.

(2926) "Pharmaceutical care" means drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.

(3027) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or a pharmacist registered by this state who is located in another state, territory or the District of Columbia and is engaged in the practice of pharmacy into Idaho, unless exempted.

(3128) "Pharmacist intern" means a person who is enrolled in or who has completed a course of study at an accredited school or college of pharmacy and is registered with the board as a pharmacist intern prior to commencement of an internship ~~program~~.

(3229) "Pharmacy" means any drug outlet, facility, department or other place where prescription drug orders are filled or compounded and prescriptions are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

(3330) "Practitioner" means a person licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(3431) "Preceptor" means a pharmacist or other health professional licensed and in good standing who supervises the internship training of a registered pharmacist intern.

(3532) "Precursor" means a substance, other than a legend drug, which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug ~~by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy~~.

(3633) "Prescriber" means an individual currently licensed, registered or otherwise authorized to prescribe and administer drugs in the course of professional practice.

(3734) "Prescriber drug outlet" means a drug outlet in which prescription drugs or devices are dispensed directly to patients under the supervision of a prescriber, except where delivery is accomplished only through on-site administration or the provision of drug samples, patient

assistance program drugs, or investigational drugs as permitted in chapter 94, title 39, Idaho Code.

(3835) "Prescription drug or legend drug" means a drug that under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements:

(a) "Caution: Federal law prohibits dispensing without a prescription"; or

(b) "Rx Only"; or

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

or a drug which is required by any applicable federal or state law or rule ~~regulation~~ to be dispensed on prescription drug order only or is restricted to use by practitioners only.

(3936) "Prescription drug order" means a valid order of a prescriber for a drug or device for an ultimate user of the drug or device.

(4037) "Prospective drug review" includes, but is not limited to, the following activities:

(a) Evaluation of the prescription drug order for known allergies, rational therapy contraindications, reasonable dose and route of administration, and reasonable directions for use.

(b) Evaluation of the prescription drug order for duplication of therapy.

(c) Evaluation of the prescription drug order for drug, food, or disease interactions.

(d) Evaluation of the prescription drug order for proper utilization~~, over- or under-utilization, and abuse/misuse~~.

(4138) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects that are used in any way in connection with the purchase, sale or handling of any drug or device.

(42) "Repackage" means repackaging or otherwise changing the container, wrapper or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist responsible for dispensing product to the patient.

(43) "Reverse distributor" means a drug outlet that receives nonsaleable prescription drugs from persons or their agents, who may lawfully possess prescription drugs without being issued a valid prescription drug order, and processes for credit or disposes of such prescription drugs.

(4439) "Sale" means every sale and includes:

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

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

(c) Holding, storing or any other possession;

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

(e) Applying, administering or any other usage.

(4540) "Ultimate user" means a person who lawfully possesses a drug for their ~~his~~ own use or for the use of a member of their ~~his~~ household or for administering to an animal owned by them ~~him~~ or by a member of their ~~his~~ household.

(4641) "Veterinary drug outlet" means a prescriber drug outlet that dispenses drugs or devices intended for animal patients.

(47) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(a) Drug returns, when conducted by a hospital, health care entity or charitable institution in accordance with 21 CFR 203.23.

(b) The sale, purchase or trade of a drug, an offer to sell, purchase or trade a drug, or the

dispensing of a drug pursuant to a prescription.

(c) The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, and such common carrier does not store, warehouse or take legal ownership of the prescription drug.

(d) The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, mis-picked, returned or recalled prescription drugs to the original manufacturer, original wholesaler, or third party returns processor, including a reverse distributor.

(4842) "Wholesaler" means a person who in the usual course of business lawfully distributes drugs or devices in or into Idaho to persons other than the ultimate user.

SECTION 3: That Section 54-1707, Idaho Code, be, and the same is hereby amended to read as follows:

54-1707.MEMBERSHIP. The board of pharmacy shall consist of five (5) members. One (1) member shall be a representative of the public, and four (4) members shall be licensed pharmacists who possess the qualifications specified in section 54-1708, Idaho Code. The board of pharmacy shall have diverse pharmacy practice experience, with at least one (1) member having substantial experience in community ~~retail~~ pharmacy and at least one (1) member having substantial experience in hospital pharmacy.

SECTION 4: That Section 54-1708, Idaho Code, be, and the same is hereby amended to read as follows:

54-1708.QUALIFICATIONS OF BOARD MEMBERS. (1) The public member of the board of pharmacy shall be a resident of the state of Idaho who has attained the age of majority and shall not be nor shall they ever have been a member of the profession of pharmacy, the spouse of a member of the profession of pharmacy, or a person who has or has had a material financial interest in providing pharmacy service or any other activity directly related to the practice of pharmacy.

(2) The pharmacist members of the board of pharmacy shall at the time of their appointment and at all times thereafter:

(a) Be residents of the state of Idaho;

(b) Be licensed and in good standing to engage in the practice of pharmacy in the state of Idaho;

(c) Be engaged in the practice of pharmacy in the state of Idaho;

(d) Have five (5) years of experience in the practice of pharmacy in the state of Idaho after licensure.

SECTION 5: That Section 54-1710, Idaho Code, be, and the same is hereby amended to read as follows:

54-1710.TERMS OF OFFICE. (1) Except as provided in subsection (2) of this section, members of the board of pharmacy shall be appointed for a term of five (5) years, except that members of the board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(2) The terms of the members of the board shall be staggered, so that the terms of no more than one (1) member shall expire in any year.

(3) No member of the board shall serve more than two (2) consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

(4) An appointee to a full term on the board shall be appointed by the governor as provided in section 54-1709, Idaho Code, and be effective on July 1 of the year of appointment. Appointees to unexpired portions of full terms shall become members of the board upon appointment.

SECTION 6: That Section 54-1713, Idaho Code, be, and the same is hereby amended to read as follows:

54-1713.ORGANIZATION OF THE BOARD. (1) The board of pharmacy shall elect from its members a chairman and such other officers as it deems appropriate and necessary to the conduct of its business. The chairman of the board of pharmacy shall preside at all meetings of the board and shall be responsible for the performance of all of the duties and functions of the board required or permitted by this chapter. Each additional officer elected by the board shall perform those duties normally associated with their ~~his~~ position and such other duties assigned to them ~~him~~ from time to time by the board.

(2) Officers elected by the board shall serve terms of one (1) year commencing with the day of their election, and ending upon election of their successors.

(3) The board shall employ a person who shall be an ex officio member of the board without vote to serve as a full-time employee of the board in the position of executive director. The executive director shall be responsible for the performance of the regular administrative functions of the board and such other duties as the board may direct.

SECTION 7: That Section 54-1714, Idaho Code, be, and the same is hereby amended to read as follows:

54-1714.COMPENSATION OF BOARD MEMBERS. (1) Each member of the board of pharmacy shall be compensated as provided by section 59-509(p), Idaho Code, for each day on which the member is engaged in performance of the official duties of the board, and reimbursement for all expenses incurred in connection with the discharge of such official duties.

(2) The executive director of the board of pharmacy shall be a nonclassified officer and shall receive, as compensation, an annual salary payable on regular pay periods, the amount of which shall be determined by the board, and reimbursement for all expenses incurred in connection with performance of their ~~his~~ official duties.

SECTION 8: That Section 54-1715, Idaho Code, be, and the same is hereby amended to read as follows:

54-1715.MEETINGS OF THE BOARD. (1) The board of pharmacy shall meet at least once every six (6) months to transact its business. One such meeting held during each fiscal year of the state shall be designated as the annual meeting and shall be for the purpose of electing officers

and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the chairman of the board or by three (3) of the members of the board.

(2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate subsequent notice.

(3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable statutes~~,~~ and rules ~~and regulations~~.

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by the act, or by any rule ~~or regulation~~ of the board, all actions of the board shall be by a majority of a quorum.

(5) All meetings and hearings of the board shall be conducted in compliance with the provisions of chapter 2, title 74, Idaho Code.

SECTION 9: That Section 54-1718, Idaho Code, be, and the same is hereby amended to read as follows:

54-1718.LICENSURE AND DISCIPLINE. (1) The board of pharmacy shall be responsible for the control and regulation of the practice of pharmacy in this state including, but not limited to, the following:

(a) The licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of pharmacy under the provisions of this chapter;

(b) The renewal of licenses to engage in the practice of pharmacy;

(c) The determination and issuance of standards for recognition and approval of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training, including internship;

(d) The enforcement of the provisions of this chapter relating to the conduct or competence of pharmacists practicing in this state, and the suspension, revocation or restriction of licenses to practice pharmacy;

(e) The regulation of the training, qualifications and employment of pharmacist interns.

(2) The board of pharmacy shall require the following applicants to submit to a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database:

(a) Original applicants for a certificate ~~licensure or registration~~, unless exempted by board rule; and

(b) Applicants for reinstatement of a certificate ~~license or registration~~.

Each applicant shall submit a completed ten (10) finger fingerprint card or scan to the board of pharmacy at the time of application and shall pay the cost of the criminal history check.

SECTION 10: That Section 54-1719, Idaho Code, be, and the same is hereby amended to read as follows:

54-1719.MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board of pharmacy shall also have the following responsibilities in regard to medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and treatment or prevention of

injury, illness and disease:

(1) The regulation of the sale at retail and the dispensing of medications, drugs, devices and other materials, including the method of dispensing in institutional facilities, and including the right to seize such drugs, devices and other materials found to be detrimental to the public health and welfare by the board after appropriate hearing as required under the administrative procedure act;

(2) The specifications of minimum professional and technical equipment, environment, supplies and procedures for the compounding, dispensing and distribution of such medications, drugs, devices and other materials within the practice of pharmacy;

(3) The control of the purity and quality of such medications, drugs, devices and other materials within the practice of pharmacy;

(4) The issuance and renewal of certificates ~~of registration~~ of drug outlets for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs.

SECTION 11: 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 certificates ~~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 their ~~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) 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.

(9) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of a certificate ~~licenses, registrations or certifications~~ authorized by this chapter, or the imposition of fines or reprimands on persons holding such certificates ~~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.

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

SECTION 12: 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 in this subsection:

(a) Practitioners 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 PIC of a registered nonresident facility must be registered to practice into Idaho;

(c) Multistate licensees 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;

(e) Employees of the public health districts established under section 39-408, Idaho Code, shall be permitted to engage in the labeling and delivery of prepackaged items pursuant to a valid prescription drug order and in accordance with a formulary established by the district health director; and

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

(2) 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 any other title or description of like import.

(3) 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 13: That Section 54-1722, Idaho Code, be, and the same is hereby amended to read as follows:

54-1722.QUALIFICATIONS FOR LICENSURE BY EXAMINATION. (1) To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(a) Have submitted a written application in the form prescribed by the board of pharmacy;

(b) Have attained the age of majority;

(c) Have graduated and received the first professional ~~undergraduate~~ degree from a school or college of pharmacy approved by the board of pharmacy;

(d) Have completed an internship or other program approved by the board of pharmacy, or demonstrated to the board's satisfaction experience in the practice of pharmacy that meets or exceeds the minimum internship requirements of the board;

(e) Have successfully passed an examination given by the board of pharmacy; and

(f) Paid the fees specified by the board of pharmacy for examination and issuance of license.

(2) Examinations. The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(3) Internship and other training programs. All applicants for licensure by examination shall obtain practical experience in the practice of pharmacy concurrent with or after college attendance,

or both, under such terms and conditions as the board shall determine.

(4) Any applicant who is a graduate of a school or college of pharmacy located outside the United States, the degree program of which has not been approved by the board, but who is otherwise qualified to apply for a license to practice pharmacy in this state, may be considered to have satisfied the degree requirements of subsection (1)(d) of this section by verification to the board of their ~~his~~ academic record and their ~~his~~ graduation and by meeting any other requirements as the board may establish from time to time. The board may require that the applicant successfully pass an examination given or approved by the board to establish proficiency in English and an equivalency of education with qualified graduates of a degree program specified in subsection (1)(d) of this section as a prerequisite of taking the licensure examination as provided in subsection (1)(f) of this section.

SECTION 14: That Section 54-1723, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723.QUALIFICATIONS FOR LICENSURE BY RECIPROCITY. (1) To obtain a license as a pharmacist by reciprocity, an applicant for licensure shall:

(a) Have submitted a written application in the form prescribed by the board of pharmacy;

(b) Have attained the age of majority;

(c) ~~Have good moral character and temperate habits;~~

~~(d)~~ Have possessed at the time of initial licensure as a pharmacist such other qualifications necessary to have been eligible for licensure at that time in this state;

(d~~e~~) Have presented to the board proof of initial licensure by examination and proof that such license and any other certificate ~~license or licenses~~ granted to the applicant by any other state or states is not at the time of application suspended, revoked, canceled or otherwise restricted in a manner preventing the applicant from practicing as a pharmacist for any reason except nonrenewal or the failure to obtain required continuing education credits in any state where the applicant is licensed but not engaged in the practice of pharmacy; and

(e~~f~~) Have paid the fees specified by the board of pharmacy for issuance of a license.

(2) Eligibility. No applicant shall be eligible for licensure by reciprocity unless the state in which the applicant was initially licensed as a pharmacist also grants reciprocal licensure to pharmacists duly licensed by examination in this state, under like circumstances and conditions.

SECTION 15: That Section 54-1723A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723A.CERTIFICATE ~~REGISTRATION~~ TO ENGAGE IN THE PRACTICE OF PHARMACY INTO IDAHO. (1) To obtain a certificate ~~registration~~ to practice as a pharmacist into the state of Idaho, the applicant shall:

(a) Be licensed and in good standing in the state from which the applicant practices pharmacy;

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

(c) Pay the fee(s) specified by the board for the issuance of the certificate ~~registration~~; and

(d) Comply with all other requirements of the board.

(2) A successful applicant for a certificate ~~registration~~ under 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.

(3) A successful applicant for a certificate ~~registration~~ under 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 applicant ~~registrant~~ is located.

(4) Renewal shall be required annually and submitted to the board no later than the last day of the applicant's ~~registrant's~~ birth month. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of the certificate ~~registration~~.

SECTION 16: That Section 54-1723B, Idaho Code, be, and the same is hereby amended 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 agency of a state.

(b) "Multistate licensee" means a multistate pharmacist, multistate pharmacist intern, or multistate technician.

(c) "Multistate pharmacist" means a nonresident pharmacist, licensed by a party state, who is not otherwise licensed by the board.

(d) "Multistate pharmacist intern" means a nonresident pharmacist intern, licensed ~~registered~~ by a party state, who is not otherwise registered by the board.

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

(f) "Multistate technician" means a nonresident ~~certified~~ technician, licensed by a party state, who is not otherwise registered by the board.

(g) "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.

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

(i) "Primary state of residence" means the multistate licensee'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.

(j) "State" means a state, a territory or possession of the United States, or 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 pharmacist intern and ~~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, ~~registered~~

pharmacist interns, or ~~certified~~ technicians as Idaho grants to the party state's pharmacists, ~~registered~~ pharmacist interns, or ~~certified~~ technicians under like circumstances and conditions.

(3) A pharmacist ~~license~~, pharmacist intern ~~registration~~, or ~~certified~~ technician license 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 licensee;

(b) The multistate licensee 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 paragraph (a) or (b) of this subsection must be met at all times by any multistate licensee engaged in the multistate practice of pharmacy in or into Idaho.

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

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

(4) A multistate licensee 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 or 37-2718, Idaho Code, the board may impose upon the multistate practice privileges of a multistate licensee any of the penalties set forth in section 54-1728 or 37-2718, Idaho Code. The board's imposition of any penalties shall be limited to the multistate practice privileges of a multistate licensee. 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 licensee 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 17: That Section 54-1724, Idaho Code, be, and the same is hereby repealed.

SECTION 18: That Section 54-1726, Idaho Code, be, and the same is hereby amended to read as follows:

54-1726.GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may penalize as set forth in 54-1728 ~~refuse to issue or renew, or may suspend, revoke or restrict the~~ a certificate ~~license or registration~~ of any person, pursuant to the procedures set forth in chapter 52, title 67,

Idaho Code, upon one (1) or more of the following grounds:

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

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

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

(i) Any crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code;

(ii) Any act that is related to the qualifications, functions or duties of a licensee or registrant; or

(iii) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of statutes, rules or regulations of any other state, or of the federal government;

(d) Fraud or intentional misrepresentation by a licensee or registrant in securing the issuance or renewal of a certificate ~~license~~;

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a certificate ~~license~~, or falsely using the title of pharmacist; and

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

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

SECTION 19: That Section 54-1727, Idaho Code, be, and the same is hereby amended to read as follows:

54-1727.CONFIDENTIALITY OF PRESCRIPTIONS AND PATIENT INFORMATION. (1) In addition to the requirements of the Health Insurance Portability and Accountability Act of 1996, a~~A~~ll prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient shall be held in the strictest confidence. No person in possession of such information shall release the information, unless requested as follows:

(a) By the board, or its representatives, acting in their official capacity;

(b) By the patient, or the patient's designee, regarding the patient's own records;

~~(c) By the practitioner, or the practitioner's designee, who issued the prescription;~~

~~(d) By other licensed health care professionals who are responsible for the direct and acute care of the patient;~~

(b~~e~~) By agents of the department of health and welfare when acting in their official capacity with reference to issues related to the practice of pharmacy (written requests by authorized agents of the department requesting such information are required);

(c~~f~~) By agents of any board whose practitioners have prescriptive authority, when the board is enforcing laws governing that practitioner;

(d~~g~~) By an agency of government charged with the responsibility for providing medical care for the patient (written requests by authorized agents of the agency requesting such information are required);

~~(h) By the federal food and drug administration (FDA), for purposes relating to monitoring of adverse drug events in compliance with the requirements of federal law, rules or~~

~~regulations adopted by the federal food and drug administration;~~

~~(i) By the patient's authorized insurance benefit provider or health plan providing health care coverage or pharmacy benefits to the patient.~~

~~(j) Nothing in this section shall be construed to prohibit consultations between health care professionals who are involved in the diagnosis, care and treatment of the patient.~~

(ek) Nothing in this section shall prohibit insurance companies and health plans from sharing patient specific information with law enforcement authorities or any of the entities identified in subsections (1)(a) through (i) of this section, in cases of suspected fraud and substance abuse.

(f~~l~~) Nothing in this section shall prohibit disclosure of patient specific information to law enforcement authorities pursuant to a search warrant, subpoena, or other court order.

~~(2) Nothing in this section shall prevent the pharmacist or others from providing aggregate or other data, which does not identify the patient to qualified researchers, including pharmaceutical manufacturers, for purposes of clinical, pharmacoepidemiological, or pharmacoeconomic research.~~

(23) Any person who has knowledge by virtue of their ~~his~~ office or occupation of any prescription drug order, record, or pharmacy related information that specifically identifies an individual patient shall not divulge such information except as authorized in ~~subsections (1) and (2) of~~ this section. Any person or entity to whom information is divulged pursuant to ~~subsection (1) of~~ this section shall not divulge such information except in compliance with this section.

(34) Nothing in this section shall limit the authority of the board or its representatives from inspecting the records of licensees and registrants ~~pharmacies or pharmacists~~ or the authority of any other board with licensees or registrants who have prescriptive authority from performing any other duty or authority of that board, nor shall this section limit a court of competent jurisdiction from ordering the release or disclosure of such records upon a showing of just cause after such review or hearing as the court deems necessary and proper. This section shall not limit the authority of any other board or agency to inspect records of persons it regulates, notwithstanding that the records may contain information protected by the provisions of this section.

(45) In addition to all other penalties as provided by law, any person or entity found by the board to be in violation of the provisions of this section shall be subject to an administrative penalty not to exceed three thousand dollars ($3,000) for each violation.

(56) No person shall be liable, nor shall a cause of action exist, for any loss or damage based upon the proper good faith release of records pursuant to the provisions of ~~subsection (1) or (2) of~~ this section.

SECTION 20: That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

54-1728.PENALTIES AND REINSTATEMENT INTERVALS. (1) Upon the finding of the existence of grounds for discipline of any person or business entity holding ~~a license or registration~~, seeking ~~a license or registration~~, or renewing a ~~renewal~~ certificate ~~license or registration~~ under the provisions of this chapter, the board of pharmacy may impose any ~~one (1) or more~~ of the following penalties:

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

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

(c) Restriction of the offender's certificate ~~license or registration~~ to prohibit the offender

from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;

(d) Refusal to issue or renew the offender's certificate ~~license or registration~~;

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

(f) Imposition of an administrative fine not to exceed two thousand dollars ($2,000) for each occurrence providing a basis for discipline.

(2) Whenever it appears that grounds for discipline exist under this chapter and the board finds that there is an immediate danger to the public health, safety, or welfare, the board is authorized to commence emergency proceedings to suspend, revoke, or restrict the certificate ~~license or registration~~. Such proceedings shall be promptly instituted and processed. Any person whose certificate ~~license or registration~~ has been disciplined pursuant to this subsection can contest the emergency proceedings and appeal under the applicable provisions of chapter 52, title 67, Idaho Code.

(3) The board may take any action against a nonresident licensee or registrant that the board can take against a resident licensee or registrant for violation of the laws of this state or the state in which it resides.

(4) The board may report any violation by a nonresident licensee or registrant, or its agent or employee, of the laws and rules of this state, the state in which it resides or the United States to any appropriate state or federal regulatory or licensing agency including, but not limited to, the regulatory agency of the state in which the nonresident licensee or registrant is a resident.

(5) ~~The board may elect to not initiate an administrative action under Idaho law against a nonresident licensee or registrant upon report of a violation of law or rule of this state if the licensee's or registrant's home state commences an action for the violation complained of; provided however, that the board may elect to initiate an administrative action if the home state action is unreasonably delayed or the home state otherwise fails to take appropriate action for the reported violation.~~

~~(6)~~ The suspension, revocation, restriction or other action taken against a licensee or registrant by a state licensing board with authority over a licensee's or registrant's professional certificate ~~license or registration~~ or by the drug enforcement administration may result in the board's issuance of an order likewise suspending, revoking, restricting or otherwise affecting the certificate ~~license or registration~~ in this state, without further proceeding, but subject to the effect of any modification or reversal by the issuing state or the drug enforcement administration.

(6~~7~~) The assessment of costs and fees incurred in the investigation and prosecution or defense of a person holding ~~a license or registration~~, seeking ~~a license or registration~~, or renewing a certificate ~~license or registration~~ under this chapter shall be governed by the provisions of section 12-117(5), Idaho Code.

(7~~8~~) Any person or business entity whose certificate ~~license~~ to practice pharmacy in this state has been suspended, revoked or restricted pursuant to this chapter, ~~or any drug outlet whose certificate of registration has been suspended, revoked or restricted pursuant to this chapter,~~ whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such certificate ~~license~~. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.

(8~~9~~) Nothing herein shall be construed as barring criminal prosecutions for violations of the

act where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(9~~10~~) All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedure act.

SECTION 21: 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, if a pharmacy, have a PIC who is registered by the board;

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

(c) Pay the fee or fees specified by the board for the issuance of the certificate ~~registration or license~~.

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

(a) Community ~~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 a certificate ~~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 a certificate ~~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,

regulations or rules in the state in which the licensee or 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 a certificate ~~registration or licensure~~.

SECTION 22: 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 54-1729A, Idaho Code, and to read as follows:

54-1729A.WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENT -- MINIMUM REQUIREMENTS FOR LICENSURE. (1) In addition to meeting federal requirements, every business entity that engages in the wholesale distribution of prescription drugs in or into Idaho must be licensed by the board as a wholesale distributor except:

(a) Manufacturers distributing their own federal food and drug administration approved drugs and devices including distribution of prescription drug samples by manufacturer's representatives and intracompany sales, 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 transfer between colicensees of a colicensed product, unless particular requirements are deemed necessary and appropriate following rulemaking.

(b) An entity that donates prescription drugs, when conducted in accordance with sections 54-1760 through 54-1765, Idaho Code.

(c) A pharmacy distributing in accordance with section 54-1732, Idaho Code.

(d) Persons selling, purchasing, distributing, trading or transferring a prescription drug for emergency medical reasons.

(2) The board shall not issue a wholesale distributor license to an applicant, unless the board:

(a) Determines that the designated representative meets the following qualifications:

(i) Is actively involved in and aware of the actual daily operation of the wholesale distributor;

(ii) Is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized including, but not limited to, sick leave and vacation leave;

(3) All applicant-designated representatives shall submit to a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each applicant shall submit a completed ten (10) finger fingerprint card or scan to the board of pharmacy at the time of application and shall pay the cost of the criminal history check.

(4) A wholesale distributor shall have adequate processes in place for monitoring purchase activity of customers and identifying suspicious ordering patterns that identify potential diversion or criminal activity related to controlled substances such as orders of unusual size, orders deviating substantially from a normal pattern, orders for drugs that are outside of the prescriber's scope of practice, or orders of unusual frequency.

(5) The board may adopt rules to approve an accreditation body to evaluate a wholesaler's operations to determine compliance with professional standards and any other applicable laws, and to perform inspections of each facility and location where wholesale distribution operations are conducted by the wholesaler.

SECTION 23: 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)~~ ~~O~~ownership~~;~~ and

~~(b) L~~location.

(3) Certificates ~~of registration~~ issued by the board pursuant to this chapter are ~~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 pharmacy ~~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 24: That Section 54-1731, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Permanent closing;

(2) Change of ownership~~, management,~~ or location;

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

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

SECTION 25: 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(7~~8~~), 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 section 54-1733D, Idaho Code, unless:

(i) Such legend drug is dispensed or delivered by a pharmacist or prescriber upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of their ~~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 to a 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 their ~~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 section 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 or to dispensing drug outlets for a specific patient need;

(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; or

(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 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 oneself ~~himself~~ to be, a manufacturer, wholesaler, dispenser, prescriber ~~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) 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 26: 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; and
(i) 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.

(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 their ~~his~~ professional practice as long as the individual is acting within the jurisdiction, scope and authority of their ~~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 27: That Section 54-1733A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733A.TRANSMISSION OF PRESCRIPTION DRUG ORDERS. A valid prescription drug order may be transmitted to a registered ~~licensed~~ pharmacy in accordance with federal law by the following means:

(1) By delivery of the original signed written prescription drug order or a digital image of the order; or

(2) By a prescriber, prescriber's agent, or representative of a state-licensed or federally certified provider community:

(a) Electronically in compliance with the uniform electronic transactions act, chapter 50,

title 28, Idaho Code, or via a secure, interoperable information technology system that exchanges data accurately and in compliance with applicable laws;

(b) Verbally; or

(c) Via facsimile.

SECTION 28: That Section 54-1733B, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733B.OPIOID ANTAGONISTS. (1) Notwithstanding any other provision of law, any health professional licensed or registered under this title, acting in good faith and exercising reasonable care, may prescribe and dispense an opioid antagonist to any person or entity.~~:~~

~~(a) A person at risk of experiencing an opiate-related overdose;~~

~~(b) A person in a position to assist a person at risk of experiencing an opiate-related overdose;~~

~~(c) A person who, in the course of his official duties or business, may encounter a person experiencing an opiate-related overdose; or~~

~~(d) A person who, in the opinion of the health professional licensed or registered under this title, has valid reason to be in the possession of an opioid antagonist.~~

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may administer an opioid antagonist to another person who appears to be experiencing an opiate-related overdose. As soon as possible, the administering person shall contact emergency medical services.

(3) Any person who prescribes, dispenses, or administers an opioid antagonist pursuant to subsection (1) or (2) of this section shall not be liable in a civil or administrative action or subject to criminal prosecution for such acts.

(4) As used in this section, "opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

SECTION 29: That Section 54-1733D, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733D.EPINEPHRINE AUTO-INJECTORS -- PRESCRIPTION AND ADMINISTRATION. (1) Notwithstanding any other provision of law, any prescriber or pharmacist acting in good faith and exercising reasonable care may prescribe an epinephrine auto-injector to any person or entity.~~:~~

~~(a) A person at risk of experiencing anaphylaxis;~~

~~(b) A person in a position to assist a person at risk of experiencing anaphylaxis;~~

~~(c) A person who, in the course of the person's official duties or business, may encounter a person experiencing anaphylaxis; and~~

~~(d) A person who, in the opinion of the prescriber or pharmacist, has a valid reason to be in possession of an epinephrine auto-injector~~.

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may administer an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis. As soon as possible, the administering person shall contact

emergency medical services.

(3) Any person who prescribes, dispenses, or administers an epinephrine auto-injector pursuant to subsection (1) or (2) of this section shall not be liable in a civil or an administrative action or subject to criminal prosecution for such acts.

(4) As used in this section, "epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

SECTION 30: That Section 54-1736, Idaho Code, be, and the same is hereby amended to read as follows:

54-1736.DECLARATION OF COMMON NUISANCE. Any store, shop, warehouse, dwelling house, apartment, building, vehicle, boat, aircraft, or any place whatsoever, which is used by any person for the purpose of unlawfully using any legend drug, or which is used for the unlawful keeping or selling of the same, is a common nuisance. No person shall keep, or maintain such a common nuisance, nor frequent or visit such place knowing it to be used for any said purposes.

SECTION 31: 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 54-1737A, Idaho Code, and to read as follows:

54-1737A.RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor shall not engage in the wholesale distribution of prescription drugs that are purchased from pharmacies or practitioners or from wholesale distributors that purchase them from pharmacies or practitioners.

(2) A manufacturer or wholesale distributor shall furnish prescription drugs only to a person licensed by the appropriate state licensing agency to manufacture, distribute, dispense, conduct research or independently administer such prescription drugs, unless exempted by law. A manufacturer or wholesale distributor shall furnish a scheduled controlled substance listed in section 37-2705, 37-2707, 37-2709, 37-2711 or 37-2713, Idaho Code, only to a person who has been issued a valid controlled substance registration by the United States drug enforcement administration and the Idaho board of pharmacy, unless exempted by state or federal law.

(3) Prescription drugs furnished by a manufacturer or wholesale distributor shall be delivered only to principal place of business or professional practice;

SECTION 32: That Section 54-1739, Idaho Code, be, and the same is hereby amended to read as follows:

54-1739.PROSPECTIVE DRUG REVIEW AND COUNSELING. (1) Before dispensing any new prescription, a pharmacist shall complete a prospective drug review.

(2) Before dispensing a prescription for a new medication, or when otherwise deemed necessary or appropriate, a pharmacist shall counsel the patient or caregiver. Counseling shall include such supplemental written materials as required by law or as are customary in that practice setting. For refills or renewed prescriptions, a pharmacist or a technician shall extend an offer to counsel the patient or caregiver. If such offer is accepted, a pharmacist shall provide such counseling as necessary or appropriate in the professional judgment of the pharmacist. All

counseling and offers to counsel shall be face-to-face with the patient or caregiver when possible, but if not possible, then a reasonable effort shall be made to contact the patient or caregiver. Nothing in this section shall require a pharmacist to provide counseling when a patient or caregiver refuses such counseling or when counseling is otherwise impossible. Patient counseling shall not be required for inpatients of a hospital or institutional facility when licensed health care professionals administer the medication.

(3) This section shall apply to all registered ~~and licensed~~ outlets.

SECTION 33: That Section 54-1751, Idaho Code, be, and the same is hereby repealed.

SECTION 34: That Section 54-1752, Idaho Code, be, and the same is hereby repealed.

SECTION 35: That Section 54-1753, Idaho Code, be, and the same is hereby repealed.

SECTION 36: That Section 54-1754, Idaho Code, be, and the same is hereby repealed.

SECTION 37: That Section 54-1757, Idaho Code, be, and the same is hereby repealed.

SECTION 38: That Section 54-1758, Idaho Code, be, and the same is hereby repealed.

SECTION 39: That Section 54-1759, Idaho Code, be, and the same is hereby repealed.

SECTION 40: That Section 54-1762A, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) An owner or a 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 in 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 nonprofit animal shelter; or

(c) A pound, as that term is defined in section 25-3502, Idaho Code.

SECTION 41: That Section 54-1764, Idaho Code, be, and the same is hereby amended to read as follows:

54-1764.IMMUNITY FROM LIABILITY. Any entity that lawfully and voluntarily participates by donating, accepting, distributing or dispensing legend drugs under the Idaho legend drug donation act shall be immune from liability for any civil action arising out of the provision of such action. This section shall not extend immunity to the participating entity for any acts constituting intentional, willful or grossly negligent conduct or to acts by a participating entity that are outside the scope of practice authorized by the entity's certificate ~~licensure, certification or registration~~.

SECTION 42: That Section 54-1765, Idaho Code, be, and the same is hereby repealed.