

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 10

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PHARMACY; AMENDING SECTION 54-1717, IDAHO CODE, TO REVISE PROVI-
2 SIONS REGARDING RULES; AMENDING SECTION 54-1720, IDAHO CODE, TO REVISE
3 PROVISIONS REGARDING OTHER DUTIES, POWERS, AND AUTHORITY OF THE BOARD
4 OF PHARMACY; AMENDING SECTION 54-1721, IDAHO CODE, TO REVISE PROVISIONS
5 REGARDING THE UNLAWFUL PRACTICE OF PHARMACY; AMENDING CHAPTER 17, TITLE
6 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1723B, IDAHO CODE,
7 TO ESTABLISH PROVISIONS REGARDING MULTISTATE PRACTICE OF PHARMACY;
8 AMENDING SECTION 54-1728, IDAHO CODE, TO PROVIDE FOR CERTAIN EMERGENCY
9 PROCEEDINGS; AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE PROVI-
10 SIONS REGARDING REGISTRATION AND LICENSURE OF FACILITIES; AMENDING
11 SECTION 54-1730, IDAHO CODE, TO REVISE PROVISIONS REGARDING APPLI-
12 CATIONS FOR CERTIFICATES OF REGISTRATION; AMENDING SECTION 54-1731,
13 IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN NOTIFICATIONS;
14 AMENDING SECTION 54-1732, IDAHO CODE, TO REVISE PROVISIONS REGARD-
15 ING VIOLATIONS AND PENALTIES; AMENDING SECTION 54-1733, IDAHO CODE,
16 TO REVISE PROVISIONS REGARDING VALIDITY OF PRESCRIPTION DRUG ORDERS;
17 AMENDING SECTION 54-1733A, IDAHO CODE, TO REVISE PROVISIONS REGARDING
18 TRANSMISSION OF PRESCRIPTION DRUG ORDERS; REPEALING SECTION 54-1734,
19 IDAHO CODE, RELATING TO POSSESSION OF LEGEND DRUGS; REPEALING SECTION
20 54-1735, IDAHO CODE, RELATING TO PATIENT MEDICATION RECORDS; AMEND-
21 ING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
22 54-1762A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING DRUG DONATION
23 FOR ANIMALS; REPEALING SECTION 54-1763, IDAHO CODE, RELATING TO BOARD
24 DUTIES AND POWERS; AND AMENDING SECTION 54-1770, IDAHO CODE, TO PROVIDE
25 THAT THIS SECTION SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT ON AND
26 AFTER JULY 1, 2021.
27

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

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

31 54-1717. ~~RULES AND REGULATIONS.~~ The board of pharmacy shall make,
32 adopt, amend, and repeal such rules ~~and regulations~~ as may be deemed nec-
33 essary by the board, from time to time, for the proper administration and
34 enforcement of this ~~act~~ chapter. Such rules ~~and regulations~~ shall be promul-
35 gated in accordance with the procedures specified in ~~Chapter 52, Title 67,~~
36 Idaho Code, the administrative procedures act.

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

39 54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy
40 shall have such other duties, powers, and authority as may be necessary to

1 the enforcement of this chapter and to the enforcement of board rules made
2 pursuant thereto, which shall include, but are not limited to, the follow-
3 ing:

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

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

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

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

16 (b) All fees or fines that shall be paid under the provisions of this
17 chapter shall be paid over by the board to the treasurer of the state of
18 Idaho and shall be held by the state treasurer in the pharmacy account,
19 which shall be paid out by the state treasurer upon warrant drawn by the
20 state controller against said account. The state controller is hereby
21 authorized, upon presentation of the proper vouchers of claims against
22 the state, approved by the said board and the state board of examiners,
23 as provided by law, to draw his warrant upon said account.

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

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

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

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

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

40 (e) Periodic reports are made to the administrator, division of finan-
41 cial management, concerning the board's receipt and expenditure of such
42 moneys.

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

45 (7) The board or its authorized representatives shall also have power
46 to investigate and gather evidence concerning alleged violations of the pro-
47 visions of this chapter or of the rules of the board.

48 (8) ~~(a) Notwithstanding anything in this chapter to the contrary, when-~~
49 ~~ever a duly authorized representative of the board finds or has probable~~
50 ~~cause to believe that any drug or device is adulterated or misbranded~~

1 within the meaning of the Idaho food, drug and cosmetic act, he shall af-
2 fix to such drug or device a tag or other appropriate marking giving no-
3 tice that such article is or is suspected of being adulterated or mis-
4 branded, has been detained or embargoed and warning all persons not to
5 remove or dispose of such article by sale or otherwise until provision
6 for removal or disposal is given by the board, its agent or the court. No
7 person shall remove or dispose of such embargoed drug or device by sale
8 or otherwise without the permission of the board or its agent or, after
9 summary proceedings have been instituted, without permission from the
10 court.

11 (b) When a drug or device detained or embargoed under paragraph (a) of
12 this subsection has been declared by such representative to be adulter-
13 ated or misbranded, the board shall, as soon as practical thereafter,
14 petition the judge of the district court in whose jurisdiction the arti-
15 cle is detained or embargoed for an order for condemnation of such arti-
16 cle. If the judge determines that the drug or device so detained or em-
17 bargoed is not adulterated or misbranded, the board shall direct the im-
18 mediate removal of the tag or other marking.

19 (c) If the court finds the detained or embargoed drug or device is adul-
20 terated or misbranded, such drug or device, after entry of the decree,
21 shall be destroyed at the expense of the owner under the supervision of
22 a board representative and all court costs and fees, storage and other
23 proper expense shall be borne by the owner of such drug or device. When
24 the adulteration or misbranding can be corrected by proper labeling or
25 processing of the drug or device, the court, after entry of the decree
26 and after such costs, fees and expenses have been paid and a good and
27 sufficient bond has been posted, may direct that such drug or device be
28 delivered to the owner thereof for such labeling or processing under
29 the supervision of a board representative. Expense of such supervision
30 shall be paid by the owner. Such bond shall be returned to the owner of
31 the drug or device on representation to the court by the board that the
32 drug or device is no longer in violation of the embargo and the expense
33 of supervision has been paid.

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

41 (9) Except as otherwise provided to the contrary, the board shall exer-
42 cise all of its duties, powers and authority in accordance with the adminis-
43 trative procedure act.

44 (10) (a) For the purpose of any proceedings held before the board as
45 authorized by law, including the refusal, nonrenewal, revocation or
46 suspension of licenses, registrations or certifications authorized
47 by this chapter, or the imposition of fines or reprimands on persons
48 holding such licenses, certifications or registrations, the board may
49 subpoena witnesses and compel their attendance, and may also at such
50 time require the production of books, papers, documents or other memo-

1 randa. In any such proceeding before the board, any member of the board,
 2 or its designee, may administer oaths or affirmations to witnesses so
 3 appearing.

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

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

22 (110) The board may sponsor, participate in or conduct education, re-
 23 search or public service programs or initiatives to carry out the purposes of
 24 this act ~~chapter~~.

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

27 54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person or
 28 business entity to engage in the practice of pharmacy including, but not lim-
 29 ited to, pharmaceutical care services in or into Idaho unless licensed or
 30 registered to so practice under the provisions of this chapter, except as
 31 provided ~~herein in this subsection~~:

32 (a) ~~Physicians, dentists, veterinarians, osteopaths or other~~
 33 ~~practitioners of the healing arts~~ who are licensed under the laws of
 34 this state and their agents or employees may deliver and administer pre-
 35 scription drugs to their patients in the practice of their respective
 36 professions where specifically authorized to do so by statute of this
 37 state;

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

43 (c) Multistate licensees permitted to engage in the multistate prac-
 44 tice of pharmacy in or into Idaho pursuant to section 54-1723B, Idaho
 45 Code;

46 (d) A veterinary drug outlet, as defined in section 54-1705, Idaho
 47 Code, does not need to register with the board if the outlet does not
 48 dispense for outpatient use any controlled substances listed in chapter

1 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuro-
 2 muscular paralyzing drugs or general anesthesia drugs-;

3 ~~(2e) Notwithstanding the provisions of subsection (1) of this section~~
 4 ~~and any statute or rule to the contrary, persons who hold a valid and~~
 5 ~~current license to practice practical or professional nursing in this~~
 6 ~~state pursuant to sections 54-1407, 54-1408 and 54-1418, Idaho Code,~~
 7 ~~and who are employed by one (1) Employees of the public health districts~~
 8 ~~established under section 39-408, Idaho Code, shall be permitted to en-~~
 9 ~~gage in the labeling and delivery of refills of the following prepack-~~
 10 ~~aged items when such items have been prescribed pursuant to a patient~~
 11 ~~valid prescription drug order and in accordance with a formulary estab-~~
 12 ~~lished by a licensed physician, licensed physician's assistant or li-~~
 13 ~~icensed advanced practice nurse: the district health director; and~~

14 ~~(a) Prenatal vitamins;~~

15 ~~(b) Contraceptive drugs approved by the United States food and drug ad-~~
 16 ~~ministration;~~

17 ~~(c) Antiviral drugs approved by the United States centers for disease~~
 18 ~~control and prevention for treatment of sexually transmitted infec-~~
 19 ~~tion; and~~

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

22 ~~(f) Researchers may possess legend drugs for use in their usual and law-~~
 23 ~~ful research projects.~~

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

28 ~~(43) Any person who shall be found to have unlawfully engaged in the~~
 29 ~~practice of pharmacy shall be subject to a fine not to exceed three thou-~~
 30 ~~sand dollars (\$3,000) for each offense. Each such violation of this chap-~~
 31 ~~ter or the rules promulgated hereunder pertaining to unlawfully engaging in~~
 32 ~~the practice of pharmacy shall also constitute a misdemeanor punishable upon~~
 33 ~~conviction as provided in the criminal code of this state.~~

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

37 54-1723B. MULTISTATE PRACTICE OF PHARMACY. Notwithstanding any pro-
 38 vision of law to the contrary:

39 (1) As used in this section:

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

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

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

47 (d) "Multistate pharmacist intern" means a nonresident pharmacist in-
 48 tern, registered by a party state, who is not otherwise registered by
 49 the board.

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

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

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

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

14 (i) "Primary state of residence" means the multistate licensee's de-
15 clared primary state of residence, as evidenced by a valid state or fed-
16 eral identification card with a home address or another form of identi-
17 fication as accepted by the board.

18 (j) "State" means a state, a territory or possession of the United
19 States, or the District of Columbia.

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

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

25 (b) Requires a fingerprint-based criminal history check prior to li-
26 censure that is substantially similar to the requirement in section
27 54-1718, Idaho Code; and

28 (c) Grants the same multistate practice privileges to Idaho phar-
29 macists, registered pharmacist interns, or certified technicians as
30 Idaho grants to the party state's pharmacists, registered pharmacist
31 interns, or certified technicians under like circumstances and condi-
32 tions.

33 (3) A pharmacist license, pharmacist intern registration, or certified
34 technician license issued by a party state will be recognized by the board as
35 permitting the multistate practice of pharmacy in or into Idaho without a li-
36 cense or registration issued by the board provided the following conditions
37 are met:

38 (a) The party state is the primary state of residence for the multistate
39 licensee;

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

43 (c) The requirements specified in paragraph (a) or (b) of this subsec-
44 tion must be met at all times by any multistate licensee engaged in the
45 multistate practice of pharmacy in or into Idaho.

46 (i) If such a multistate licensee no longer meets the require-
47 ments in paragraph (a) of this subsection, the multistate licensee
48 must apply for licensure in the new primary state of residence
49 prior to relocating to the new primary state of residence. If the
50 pharmacist, pharmacist intern, or technician's new primary state

1 of residence is either Idaho or another party state, the pharma-
 2 cist, pharmacist intern, or technician may continue to practice
 3 until a new license is issued in the new primary state of resi-
 4 dence.

5 (ii) If a multistate licensee no longer meets the requirements in
 6 paragraph (b) of this subsection, the multistate licensee must im-
 7 mediately cease engaging in the multistate practice of pharmacy in
 8 or into Idaho, unless the multistate licensee obtains a license or
 9 registration issued by the board.

10 (4) A multistate licensee engaged in the multistate practice of phar-
 11 macy in or into Idaho must comply with all laws governing the practice of
 12 pharmacy in the state of Idaho.

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

20 (6) The board shall promptly notify a party state of any board action
 21 taken against the multistate practice privileges of a multistate licensee
 22 licensed by the party state. The party state shall give the same priority and
 23 effect to reported conduct received from the board as it would if such con-
 24 duct had occurred within the party state.

25 SECTION 5. That Section 54-1728, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the ex-
 28 istence of grounds for discipline of any person or business entity holding
 29 a license or registration, seeking a license or registration, or a renewal
 30 license or registration under the provisions of this chapter, the board of
 31 pharmacy may impose one (1) or more of the following penalties:

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

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

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

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

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

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

44 (2) Whenever it appears that grounds for discipline exist under this
 45 chapter and the board finds that there is an immediate danger to the pub-
 46 lic health, safety, or welfare, the board is authorized to commence emer-
 47 gency proceedings to suspend, revoke, or restrict the license or registra-
 48 tion. Such proceedings shall be promptly instituted and processed. Any per-
 49 son whose license or registration has been disciplined pursuant to this sub-

1 section can contest the emergency proceedings and appeal under the applica-
2 ble provisions of chapter 52, title 67, Idaho Code.

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

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

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

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

27 (67) The assessment of costs and fees incurred in the investigation and
28 prosecution or defense of a person holding a license or registration, seek-
29 ing a license or registration, or renewing a license or registration under
30 this chapter shall be governed by the provisions of section 12-117(5), Idaho
31 Code.

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

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

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

47 SECTION 6. That Section 54-1729, Idaho Code, be, and the same is hereby
48 amended to read as follows:

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

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

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

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

10 ~~(d) Have a PIC who is licensed or registered by the board, except manu-~~
11 ~~facturers, wholesalers and other drug outlets in accordance with board~~
12 ~~rule.~~

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

15 (a) Retail pharmacy;

16 (b) Institutional facility;

17 (c) Manufacturer;

18 (d) Wholesaler;

19 (e) Prescriber drug outlet;

20 (f) Central drug outlet;

21 (g) Mail service pharmacy;

22 (h) Limited service outlet.

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

31 (4) It shall be lawful for any outlet or facility to sell and distrib-
32 ute nonprescription drugs. Outlets engaging in the sale and distribution of
33 such items shall not be deemed to be improperly engaged in the practice of
34 pharmacy. No rule will be adopted by the board under this chapter that re-
35 quires the sale of nonprescription drugs by a pharmacist or under the super-
36 vision of a pharmacist or otherwise applies to or interferes with the sale
37 and distribution of such medicines.

38 (5) If the regulatory board or licensing authority of the state in which
39 a nonresident outlet is located fails or refuses to conduct an inspection or
40 fails to obtain records or reports required by the board, upon reasonable no-
41 tice to the nonresident outlet, the board may conduct an inspection. Nonres-
42 ident outlets shall also pay the actual costs of the out-of-state inspection
43 of the outlet, including the transportation, lodging and related expenses of
44 the board's inspector.

45 (6) A successful applicant for registration under the provisions of
46 this section shall be subject to the disciplinary provisions of section
47 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code,
48 and the rules of the board.

49 (7) A successful applicant for registration under the provisions of
50 this section shall comply with the board's laws and rules of this state un-

1 less compliance would violate the laws or rules in the state in which the
2 registrant is located.

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

6 SECTION 7. That Section 54-1730, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall
9 specify by rule the registration procedures to be followed including,
10 but not limited to, specification of forms for use in applying for such
11 certificates of registration and times, places and fees for filing such ap-
12 plication.

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

15 (a) Ownership; and

16 (b) Location;

17 ~~(c) Identity of pharmacist licensed or registered to practice in the~~
18 ~~state, who shall be the person in charge of the outlet, where one is re-~~
19 ~~quired by this chapter, and such further information as the board may~~
20 ~~deem necessary.~~

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

23 (4) The board shall specify by rule minimum standards for the profes-
24 sional responsibility in the conduct of any outlet that has employees or per-
25 sonnel engaged in the practice of pharmacy. The board is specifically autho-
26 rized to require that the portion of the facility to which such certificate
27 of registration applies be operated only under the direct supervision of no
28 less than one (1) pharmacist licensed to practice in this state and not oth-
29 erwise, and to provide such other special requirements as deemed necessary.

30 SECTION 8. That Section 54-1731, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 54-1731. NOTIFICATIONS. ~~(1)~~ All registered drug outlets shall report
33 to the board of pharmacy the occurrence of any of the following changes:

34 (a~~1~~) Permanent closing;

35 (b~~2~~) Change of ownership, management, or location ~~or pharmacist in~~
36 ~~charge;~~

37 (3) Disasters, accidents, and emergencies that affect the safe and con-
38 tinued operation of a drug outlet; and

39 (e~~4~~) Any and all other matters and occurrences as the board may require
40 by rules and regulations.

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

45 SECTION 9. That Section 54-1732, Idaho Code, be, and the same is hereby
46 amended to read as follows:

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

6 (2) Reinstatement of a certificate that has been suspended, revoked
7 or restricted by the board may be granted in accordance with the procedures
8 specified in section 54-1728 (78), Idaho Code.

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

11 (a) The sale, delivery or administration of any prescription drug or
12 legend drug, except an opioid antagonist pursuant to section 54-1733B,
13 Idaho Code, or an epinephrine auto-injector pursuant to sections
14 54-1733C and 54-1733D, Idaho Code, unless:

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

23 (ii) In the case of a legend drug dispensed by to a pharmacist or
24 prescriber person, there is a label affixed to the immediate con-
25 tainer in which such drug is dispensed. Any person violating this
26 subparagraph shall be guilty of a misdemeanor and upon conviction
27 thereof shall be fined not more than five hundred dollars (\$500).
28 Nothing in this subparagraph prohibits a practitioner from deliv-
29 ering professional samples of legend drugs in their original con-
30 tainers in the course of his practice when oral directions for use
31 are given at the time of such delivery.

32 (b) The refilling of any prescription or drug order for a legend drug,
33 except as designated on the prescription or drug order or by the autho-
34 rization of the practitioner, or in accordance with board rule. Any
35 person guilty of violating the provisions of this paragraph shall be
36 guilty of a misdemeanor and upon conviction thereof shall be incarcer-
37 ated in the county jail for a term not to exceed one (1) year, or punished
38 by a fine of not more than one thousand dollars (\$1,000), or by both such
39 fine and incarceration.

40 (c) The possession or use of a legend drug or a precursor, except an
41 opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epi-
42 nephrine auto-injector pursuant to sections 54-1733C and 54-1733D,
43 Idaho Code, by any person unless such person obtains such drug on the
44 prescription or drug order of a practitioner. Any person guilty of vio-
45 lating the provisions of this paragraph shall be guilty of a misdemeanor
46 and upon conviction thereof shall be incarcerated in the county jail for
47 a term not to exceed one (1) year, or punished by a fine of not more than
48 one thousand dollars (\$1,000), or by both such fine and incarceration.

49 (d) The wholesale distribution of drugs or devices by a pharmacy except
50 for:

1 (i) The sale, transfer, merger or consolidation of all or part of
2 the business of a pharmacy or pharmacies from or with another phar-
3 macy or pharmacies, whether accomplished as a purchase and sale of
4 stock or business assets;~~i~~

5 (ii) The sale of minimal quantities of prescription drugs to prac-
6 titioners for office use;~~i~~

7 (iii) The sale of a prescription drug for emergency medical rea-
8 sons, but never to a wholesale distributor;~~i~~

9 (iv) Intracompany sales of prescription drugs, meaning any trans-
10 action or transfer between any division, subsidiary, parent or af-
11 filiated or related company under common ownership and control of
12 a corporate entity, or any transaction or transfer between colli-
13 censees or a colicensed product, but never to a wholesale distrib-
14 utor; or

15 (v) Other exemptions as permitted by federal law.

16 (e) The failure to keep records as required by the board. Any person
17 guilty of violating the provisions of this paragraph shall be guilty of
18 a misdemeanor and upon conviction thereof shall be incarcerated in the
19 county jail for a term not to exceed one (1) year, or punished by a fine
20 of not more than one thousand dollars (\$1,000), or by both such fine and
21 incarceration.

22 (f) The refusal to make available and to accord full opportunity to
23 check any record, as required by the board. Any person guilty of vio-
24 lating the provisions of this paragraph shall be guilty of a misdemeanor
25 and upon conviction thereof shall be incarcerated in the county jail for
26 a term not to exceed one (1) year, or punished by a fine of not more than
27 one thousand dollars (\$1,000), or by both such fine and incarceration.

28 (g) It is unlawful to:

29 (i) Obtain or attempt to obtain a legend drug or procure or at-
30 tempt to procure the administration of a legend drug by fraud, de-
31 ceit, misrepresentation or subterfuge; by the forgery or alter-
32 ation of a prescription, drug order, or of any written order; by
33 the concealment of a material fact; or by the use of a false name or
34 the giving of a false address.

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

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

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

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

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

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

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

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

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

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

26 54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription
27 drug order for a legend drug is valid only if it is issued by a prescriber for
28 a legitimate medical purpose arising from a prescriber-patient relation-
29 ship which includes a documented patient evaluation adequate to establish
30 diagnoses, if applicable, and identify underlying conditions and/or con-
31 traindications to the treatment.

32 (2) A prescriber who is otherwise authorized to perform any of the ac-
33 tivities listed in this section may prescribe or perform any of the follow-
34 ing activities for a patient with whom the prescriber does not have a pre-
35 scriber-patient relationship under the following circumstances:

36 (a) Writing initial admission orders for a newly hospitalized patient;

37 (b) Writing a prescription drug order for a patient of another pre-
38 scriber for whom the prescriber is taking call;

39 (c) Writing a prescription drug order for a patient examined by a physi-
40 cian assistant, advanced practice registered nurse or other licensed
41 practitioner with whom the prescriber has a supervisory or collabora-
42 tive relationship;

43 (d) Writing a prescription drug order for a medication on a short-term
44 basis for a new patient prior to the patient's first appointment;

45 (e) Writing a prescription for an opioid antagonist pursuant to section
46 54-1733B, Idaho Code;

47 (f) In emergency situations where the life or health of the patient is
48 in imminent danger;

1 (g) In emergencies that constitute an immediate threat to the public
2 health including, but not limited to, empiric treatment or prophylaxis
3 to prevent or control an infectious disease outbreak;

4 (h) Epinephrine auto-injectors in the name of a school pursuant to sec-
5 tion 33-520A, Idaho Code, or an authorized entity pursuant to section
6 54-1733C, Idaho Code; and

7 ~~(i) If a prescriber makes a diagnosis of a sexually transmitted dis-~~
8 ~~ease in a patient, prescribe or dispense antibiotics to the infected pa-~~
9 ~~tient's named sexual partner or partners for treatment of the sexually~~
10 ~~transmitted disease as recommended by the most current centers for dis-~~
11 ~~ease control and prevention guidelines; and~~

12 ~~(j) If a prescriber makes a diagnosis of an infectious disease in a~~
13 ~~patient, prescribe or dispense antimicrobials to an individual who~~
14 ~~has been exposed to the infectious person in accordance with clinical~~
15 ~~guidelines for chemoprophylaxis.~~

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

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

25 (5) The following acts shall be unlawful:

26 (a) To knowingly issue an invalid prescription drug order for a legend
27 drug;

28 (b) To knowingly dispense a legend drug pursuant to an invalid pre-
29 scription drug order; or

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

32 Such acts shall constitute unprofessional conduct and the prescriber or
33 dispenser shall be subject to discipline according to the provisions of
34 the Idaho Code chapter pursuant to which the prescriber or dispenser is li-
35 censed, certified or registered.

36 SECTION 11. That Section 54-1733A, Idaho Code, be, and the same is
37 hereby amended to read as follows:

38 54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. ~~(1)~~ A valid pre-
39 scription drug order may be transmitted to a licensed pharmacy in accordance
40 with federal law by the following means:

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

44 ~~(b2)~~ Electronically by the By a prescriber, or prescriber's agent, or
45 representative of a state-licensed or federally certified provider commu-
46 nity:

47 (a) Electronically in compliance with the uniform electronic transac-
48 tions act, chapter 50, title 28, Idaho Code, or

1 ~~(c) Electronically by a licensed practical or professional nurse in~~
2 ~~an institutional facility for a patient of that facility via a secure,~~
3 ~~interoperable information technology system that exchanges data accu-~~
4 ~~rately, effectively and in compliance with applicable laws;~~

5 ~~(db) Verbally by the prescriber, prescriber's agent, or a licensed~~
6 ~~practical or professional nurse for a patient of an institutional fa-~~
7 ~~cility or for a hospice patient; and; or~~

8 ~~(ec) Via facsimile by a prescriber, prescriber's agent, institutional~~
9 ~~facility or hospice agent, provided that if the order was initially re-~~
10 ~~ceived verbally, the transmitted document shall include the name of the~~
11 ~~prescriber, the name of the licensed practical or professional nurse~~
12 ~~who received and transcribed the order and the name of the person who~~
13 ~~faxed the order.~~

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

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

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

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

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

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

27 SECTION 12. That Section [54-1734](#), Idaho Code, be, and the same is hereby
28 repealed.

29 SECTION 13. That Section [54-1735](#), Idaho Code, be, and the same is hereby
30 repealed.

31 SECTION 14. That Chapter 17, Title 54, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 54-1762A, Idaho Code, and to read as follows:

34 54-1762A. DRUG DONATION FOR ANIMALS. Notwithstanding any other pro-
35 vision of law:

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

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

44 (a) The drug is not expired;

45 (b) There is no reason to believe the drug has been adulterated;

46 (c) The drug is not a controlled substance;

47 (d) The drug is not a compounded drug; and

1 (e) If a liquid, the drug is packaged in a single dose in an ampule or
2 vial.

3 (3) A licensed veterinarian or a veterinary medical facility may not
4 resell the donated drug.

5 (4) A licensed veterinarian or a veterinary medical facility may, how-
6 ever, reissue the donated drug, without charge, for proper administration to
7 an animal by:

8 (a) Another client of the veterinarian or facility who appears to be fi-
9 nancially unable to pay for the drug;

10 (b) A nonprofit animal shelter; or

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

12 SECTION 15. That Section [54-1763](#), Idaho Code, be, and the same is hereby
13 repealed.

14 SECTION 16. That Section 54-1770, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 54-1770. NOTIFICATION OF DRUG PRODUCT SELECTION FOR EPILEPSY AND
17 SEIZURE DRUGS. The provisions of this section shall be null, void, and of no
18 force and effect on and after July 1, 2021.

19 (1) In this section:

20 (a) "Anti-epileptic drug" means:

21 (i) A drug used for the treatment of epilepsy; or

22 (ii) A drug used to treat or prevent seizures.

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

27 (c) "Epilepsy" means a neurological condition characterized by recur-
28 rent seizures.

29 (d) "Seizure" means an acute clinical change secondary to a brief dis-
30 turbance in the electrical activity of the brain.

31 (2) When a prescriber has specified that a drug is prescribed for the
32 treatment of epilepsy or seizures, pharmacy personnel who perform drug prod-
33 uct selections shall:

34 (a) Notify the prescriber of such drug product selection via facsimile,
35 telephone message or any other appropriate means to the prescriber's
36 place of business; and

37 (b) Provide the patient or the patient's representative with notifica-
38 tion of the selection.

39 (3) Nothing in this section shall delay the dispensing of a valid pre-
40 scription for an anti-epileptic drug.