

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 40

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1
2 RELATING TO PHARMACISTS; AMENDING SECTION 54-1704, IDAHO CODE, TO REMOVE
3 OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SEC-
4 TION 54-1705, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, AND
5 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1707, IDAHO CODE,
6 TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION;
7 AMENDING SECTION 54-1710, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS;
8 AMENDING SECTION 54-1715, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND
9 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1718, IDAHO CODE,
10 TO PROVIDE FOR CERTIFICATES; AMENDING SECTION 54-1719, IDAHO CODE, TO
11 REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
12 SECTION 54-1720, IDAHO CODE, TO PROVIDE FOR CERTIFICATES AND TO MAKE
13 TECHNICAL CORRECTIONS; AMENDING SECTION 54-1721, IDAHO CODE, TO REMOVE
14 OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
15 54-1722, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL
16 CORRECTION; AMENDING SECTION 54-1723, IDAHO CODE, TO REMOVE OBSOLETE
17 LANGUAGE AND TO PROVIDE FOR CERTIFICATES; AMENDING SECTION 54-1723A,
18 IDAHO CODE, TO PROVIDE FOR CERTIFICATES; AMENDING SECTION 54-1723B,
19 IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 54-1724,
20 IDAHO CODE, RELATING TO RENEWAL OF LICENSES; AMENDING SECTION 54-1726,
21 IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL COR-
22 RECTIONS; AMENDING SECTION 54-1727, IDAHO CODE, TO PROVIDE FOR FEDERAL
23 LAW, TO PROVIDE CORRECT TERMINOLOGY, AND TO MAKE TECHNICAL CORRECTIONS;
24 AMENDING SECTION 54-1728, IDAHO CODE, TO PROVIDE FOR CERTIFICATES AND
25 TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 54-1729, IDAHO CODE,
26 TO PROVIDE CORRECT TERMINOLOGY; AMENDING CHAPTER 17, TITLE 54, IDAHO
27 CODE, BY THE ADDITION OF A NEW SECTION 54-1729A, IDAHO CODE, TO PROVIDE
28 FOR THE LICENSURE OF WHOLESALE DRUG DISTRIBUTORS; AMENDING SECTION
29 54-1730, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECH-
30 NICAL CORRECTIONS; AMENDING SECTION 54-1731, IDAHO CODE, TO REMOVE
31 OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SEC-
32 TION 54-1732, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE
33 A CORRECT CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
34 SECTION 54-1733A, IDAHO CODE, TO PROVIDE FOR A REGISTERED PHARMACY;
35 AMENDING SECTION 54-1733B, IDAHO CODE, TO REMOVE CERTAIN LIMITATIONS;
36 AMENDING SECTION 54-1733D, IDAHO CODE, TO REMOVE CERTAIN LIMITATIONS;
37 AMENDING SECTION 54-1736, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS;
38 AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
39 TION 54-1737A, IDAHO CODE, TO PROVIDE RESTRICTIONS REGARDING CERTAIN
40 TRANSACTIONS; AMENDING SECTION 54-1739, IDAHO CODE, TO REMOVE OBSOLETE
41 LANGUAGE; REPEALING SECTION 54-1751, IDAHO CODE, RELATING TO A SHORT
42 TITLE; REPEALING SECTION 54-1752, IDAHO CODE, RELATING TO DEFINITIONS;
43 REPEALING SECTION 54-1753, IDAHO CODE, RELATING TO WHOLESALE DRUG DIS-
44 TRIBUTOR LICENSING; REPEALING SECTION 54-1754, IDAHO CODE, RELATING
45 TO RESTRICTIONS ON TRANSACTIONS; REPEALING SECTION 54-1757, IDAHO

1 CODE, RELATING TO DISCIPLINE; REPEALING SECTION 54-1758, IDAHO CODE,
 2 RELATING TO PROHIBITED ACTS; REPEALING SECTION 54-1759, IDAHO CODE,
 3 RELATING TO PENALTIES; AMENDING SECTION 54-1761, IDAHO CODE, TO PROVIDE
 4 A CORRECT CODE REFERENCE; AMENDING SECTION 54-1762A, IDAHO CODE, TO
 5 REMOVE LANGUAGE REGARDING LIQUID DRUG DONATIONS AND TO PROVIDE A COR-
 6 RECT CODE REFERENCE; AMENDING SECTION 54-1764, IDAHO CODE, TO PROVIDE
 7 FOR CERTIFICATES; REPEALING SECTION 54-1765, IDAHO CODE, RELATING TO
 8 EXEMPTION FROM THE IDAHO WHOLESALE DRUG DISTRIBUTION ACT; AND AMENDING
 9 SECTION 54-4702, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

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

13 54-1704. PRACTICE OF PHARMACY. "Practice of pharmacy" means:

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

16 (2) Participation in drug and device selection, drug administration,
 17 prospective and retrospective drug reviews and drug or drug-related re-
 18 search;

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

21 (4) The responsibility for:

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

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

27 (c) The offering or performing of those acts, services, operations or
 28 transactions necessary to the conduct, operation, management and con-
 29 trol of pharmacy;

30 (5) The prescribing of:

31 ~~(a) Agents for active immunization when prescribed for susceptible~~
 32 ~~persons six (6) years of age or older for the protection from communica-~~
 33 ~~ble disease; and~~

34 ~~(b) Drugs, drug categories, or devices that are prescribed in accor-~~
 35 ~~dance with the product's federal food and drug administration-approved la-~~
 36 ~~beling and that are limited to conditions that:~~

37 ~~(i)a) Do not require a new diagnosis;~~

38 ~~(i)b) Are minor and generally self-limiting;~~

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

42 ~~(i)d) In the professional judgment of the pharmacist, threaten the~~
 43 ~~health or safety of the patient should the prescription not be imme-~~
 44 ~~diately dispensed. In such cases, only sufficient quantity may be~~
 45 ~~provided until the patient is able to be seen by another provider.~~

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

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

3 54-1705. DEFINITIONS. In this chapter:

4 (1) "Board of pharmacy" or "board" means the Idaho state board of phar-
5 macy.

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

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

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

15 (5) "Colicensed partner or product" means an instance where two (2) or
16 more parties have the right to engage in the manufacturing or marketing of
17 a prescription drug, consistent with the federal food and drug administra-
18 tion's implementation of the prescription drug marketing act.

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

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

27 (58) "Deliver" or "delivery" means the actual, constructive or at-
28 tempted transfer of a drug or device from one person to another, whether or
29 not for a consideration.

30 (69) "Device" means an instrument, apparatus, implement, machine, con-
31 trivance, implant, in vitro reagent or other similar related article, in-
32 cluding any component part or accessory ~~which~~ that is:

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

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

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

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

47 (811) "Distribute" means the delivery of a drug other than by adminis-
48 tering or dispensing.

49 (912) "Drug" means:

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

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

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

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

10 (103) "Drug outlet" means a resident or nonresident pharmacy, business
11 entity or other facility where employees or personnel are engaged in the
12 practice of pharmacy, in the provision of pharmaceutical care, or in the
13 dispensing, delivering, distributing or manufacturing of drugs or devices
14 in or into Idaho.

15 (114) "Institutional drug order" means a prescription drug order issued
16 in the unique form and manner permitted for a patient or resident of an in-
17 stitutional facility or as permitted for other purposes as defined in rule.
18 Unless specifically differentiated, state law applicable to a prescription
19 drug order is also applicable to an institutional drug order.

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

24 (136) "Internship" means a practical experience program under the su-
25 pervision of a preceptor.

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

29 (158) "Labeling" means the process of preparing and affixing ~~of~~ a la-
30 bel to any drug container, exclusive however of the labeling by a manufac-
31 turer, packer or distributor of a nonprescription drug or commercially pack-
32 aged legend drug or device. Any such label shall include all information re-
33 quired by federal and state law.

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

42 (1720) "Mail service pharmacy" means a nonresident pharmacy that ships,
43 mails or delivers by any lawful means a dispensed legend drug to residents
44 in this state pursuant to a legally issued prescription drug order and en-
45 sures the provision of corresponding related pharmaceutical care services
46 required by law.

47 (1821) "Manufacture" means the production, preparation, propagation,
48 compounding, conversion or processing of a device or a drug, either directly
49 or indirectly by extraction from substances of natural origin or independ-
50 dently by means of chemical synthesis or by a combination of extraction and

1 chemical synthesis, and includes any packaging or repackaging of the sub-
2 stance or labeling or relabeling of its container, except that this term does
3 not include the preparation or compounding of a drug by an individual for his
4 own use or the preparation, compounding, packaging or labeling of a drug:

5 (a) By a pharmacist or practitioner as an incident to his administer-
6 ing, dispensing or, as authorized by board rule, distributing of a drug
7 in the course of his professional practice; or

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

11 ~~(1922)~~ "Manufacturer" means a person who ~~by compounding, cultivating,~~
12 ~~harvesting, mixing or~~ is licensed or approved by the federal food and drug
13 administration to engage in the manufacture of drugs, including a colicensed
14 partner or affiliate of that person, who compounds, cultivates, derives,
15 harvests, mixes, or by other process produces or prepares legend drugs,
16 and includes persons who prepare such drugs in dosage forms by mixing, com-
17 pounding, encapsulating, entableting, or other process, or who packages or
18 repackages such drugs, but does not include pharmacists or practitioners in
19 the practice of their profession.

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

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

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

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

37 (247) "Person" means an individual, corporation, partnership, associa-
38 tion or any other legal entity.

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

41 (269) "Pharmaceutical care" means drug therapy and other pharmaceuti-
42 cal patient care services intended to achieve outcomes related to the cure or
43 prevention of a disease, elimination or reduction of a patient's symptoms,
44 or arresting or slowing of a disease process as defined in the rules of the
45 board.

46 (2730) "Pharmacist" means an individual licensed by this state to en-
47 gage in the practice of pharmacy or a pharmacist registered by this state who
48 is located in another state, territory or the District of Columbia and is en-
49 gaged in the practice of pharmacy into Idaho, unless exempted.

1 (2831) "Pharmacist intern" means a person who is enrolled in or who has
 2 completed a course of study at an accredited school or college of pharmacy
 3 and is registered with the board as a pharmacist intern prior to commencement
 4 of an internship program.

5 (2932) "Pharmacy" means any drug outlet, facility, department or other
 6 place where prescription drug orders are filled or compounded and prescrip-
 7 tions are sold, dispensed, offered or displayed for sale, which has, as its
 8 principal purpose, the dispensing of drug and health supplies intended for
 9 the general health, welfare and safety of the public.

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

13 (314) "Preceptor" means a pharmacist or other health professional li-
 14 censed and in good standing who supervises the internship training of a reg-
 15 istered pharmacist intern.

16 (325) "Precursor" means a substance, other than a legend drug, ~~which~~
 17 that is an immediate chemical intermediate that can be processed or synthe-
 18 sized into a legend drug, and is used or produced primarily for use in the
 19 manufacture of a legend drug ~~by persons other than persons licensed to manu-~~
 20 ~~facture such legend drugs by the Idaho board of pharmacy, registered by the~~
 21 ~~state board of health and welfare, or licensed to practice pharmacy by the~~
 22 ~~Idaho board of pharmacy.~~

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

26 (347) "Prescriber drug outlet" means a drug outlet in which prescrip-
 27 tion drugs or devices are dispensed directly to patients under the super-
 28 vision of a prescriber, except where delivery is accomplished only through
 29 on-site administration or the provision of drug samples, patient assistance
 30 program drugs, or investigational drugs as permitted in chapter 94, title
 31 39, Idaho Code.

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

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

37 (b) "Rx Only"; or

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

40 or a drug ~~which~~ that is required by any applicable federal or state law or
 41 ~~regulation rule~~ rule to be dispensed on prescription drug order only or is re-
 42 stricted to use by practitioners only.

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

45 (3740) "Prospective drug review" includes, but is not limited to, the
 46 following activities:

47 (a) Evaluation of the prescription drug order for known allergies, ra-
 48 tional therapy contraindications, reasonable dose and route of admin-
 49 istration, and reasonable directions for use-;

1 (b) Evaluation of the prescription drug order for duplication of ther-
2 apy-;

3 (c) Evaluation of the prescription drug order for drug, food, or dis-
4 ease interactions-; and

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

7 ~~(3841)~~ "Record" means all papers, letters, memoranda, notes, prescrip-
8 tions, drug orders, invoices, statements, patient medication charts or
9 files, computerized records or other written indicia, documents or objects
10 that are used in any way in connection with the purchase, sale or handling of
11 any drug or device.

12 (42) "Repackage" means repackaging or otherwise changing the con-
13 tainer, wrapper, or labeling to further the distribution of a prescription
14 drug, excluding such actions when completed by the pharmacist responsible
15 for dispensing product to the patient.

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

20 ~~(3944)~~ "Sale" means every sale and includes:

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

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

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

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

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

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

30 ~~(416)~~ "Veterinary drug outlet" means a prescriber drug outlet that dis-
31 penses drugs or devices intended for animal patients.

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

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

36 (b) The sale, purchase, or trade of a drug, an offer to sell, purchase,
37 or trade a drug, or the dispensing of a drug pursuant to a prescription;

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

42 (d) The sale or transfer from a community pharmacy or chain pharmacy
43 warehouse of expired, damaged, mispicked, returned, or recalled pre-
44 scription drugs to the original manufacturer, original wholesaler, or
45 third-party returns processor, including a reverse distributor.

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

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

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

8 SECTION 4. That Section 54-1710, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 54-1710. TERMS OF OFFICE. (1) Except as provided in subsection (2) of
11 this section, members of the board of pharmacy shall be appointed for a term
12 of five (5) years, except that members of the board who are appointed to fill
13 vacancies ~~which~~ that occur prior to the expiration of a former member's full
14 term shall serve the unexpired portion of such term.

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

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

20 (4) An appointee to a full term on the board shall be appointed by the
21 governor as provided in section 54-1709, Idaho Code, and be effective on July
22 1 of the year of appointment. Appointees to unexpired portions of full terms
23 shall become members of the board upon appointment.

24 SECTION 5. That Section 54-1715, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 54-1715. MEETINGS OF THE BOARD. (1) The board of pharmacy shall meet at
27 least once every six (6) months to transact its business. One (1) such meet-
28 ing held during each fiscal year of the state shall be designated as the an-
29 nual meeting and shall be for the purpose of electing officers and for the re-
30 organization of the board. The board shall meet at such additional times as
31 it may determine. Such additional meetings may be called by the chairman of
32 the board or by three (3) of the members of the board.

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

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

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

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

1 SECTION 6. That Section 54-1718, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-1718. LICENSURE AND DISCIPLINE. (1) The board of pharmacy shall be
4 responsible for the control and regulation of the practice of pharmacy in
5 this state including, but not limited to, the following:

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

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

10 (c) The determination and issuance of standards for recognition and ap-
11 proval of schools and colleges of pharmacy whose graduates shall be el-
12 igible for licensure in this state, and the specification and enforce-
13 ment of requirements for practical training, including internship;

14 (d) The enforcement of the provisions of this chapter relating to the
15 conduct or competence of pharmacists practicing in this state, and the
16 suspension, revocation or restriction of licenses to practice phar-
17 macy;

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

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

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

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

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

31 SECTION 7. That Section 54-1719, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 54-1719. MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board
34 of pharmacy shall also have the following responsibilities in regard to med-
35 ications, drugs, devices and other materials used in this state in the di-
36 agnosis, mitigation and treatment or prevention of injury, illness and dis-
37 ease:

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

44 (2) The specifications of minimum professional and technical equip-
45 ment, environment, supplies and procedures for the compounding, dispensing
46 and distribution of such medications, drugs, devices and other materials
47 within the practice of pharmacy;

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

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

6 SECTION 8. That Section 54-1720, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy
9 shall have such other duties, powers, and authority as may be necessary to
10 the enforcement of this chapter and to the enforcement of board rules made
11 pursuant thereto, which shall include, but are not limited to, the follow-
12 ing:

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

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

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

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

25 (b) All fees or fines that shall be paid under the provisions of this
26 chapter shall be paid over by the board to the treasurer of the state of
27 Idaho and shall be held by the state treasurer in the pharmacy account,
28 which shall be paid out by the state treasurer upon warrant drawn by the
29 state controller against said account. The state controller is hereby
30 authorized, upon presentation of the proper vouchers of claims against
31 the state, approved by the said board and the state board of examiners,
32 as provided by law, to draw his warrant upon said account.

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

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

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

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

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

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

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

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

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

12 (9) (a) For the purpose of any proceedings held before the board as
13 authorized by law, including the refusal, nonrenewal, revocation or
14 suspension of ~~licenses, registrations or certifications~~ a certificate
15 authorized by this chapter, or the imposition of fines or reprimands
16 on persons holding such licenses, certifications or registrations
17 certificates, the board may subpoena witnesses and compel their at-
18 tendance, and may also at such time require the production of books,
19 papers, documents or other memoranda. In any such proceeding before the
20 board, any member of the board, or its designee, may administer oaths or
21 affirmations to witnesses so appearing.

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

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

40 (10) The board may sponsor, participate in or conduct education, re-
41 search or public service programs or initiatives to carry out the purposes
42 of this chapter.

43 SECTION 9. That Section 54-1721, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person or
46 business entity to engage in the practice of pharmacy including, but not lim-
47 ited to, pharmaceutical care services in or into Idaho unless licensed or
48 registered to so practice under the provisions of this chapter, except as
49 provided in this subsection:

1 (a) Practitioners who are licensed under the laws of this state and
2 their agents or employees may deliver and administer prescription drugs
3 to their patients in the practice of their respective professions where
4 specifically authorized to do so by statute of this state;

5 (b) Nonresident pharmacists who are actively licensed in their state
6 of residence may practice pharmacy into Idaho if employed by or affili-
7 ated with and practicing for an Idaho-registered nonresident drug out-
8 let. Only the PIC of a registered nonresident facility must be regis-
9 tered to practice into Idaho;

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

13 (d) A veterinary drug outlet, as defined in section 54-1705, Idaho
14 Code, does not need to register with the board if the outlet does not
15 dispense for outpatient use any controlled substances listed in chapter
16 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuro-
17 muscular paralyzing drugs or general anesthesia drugs;

18 (e) Employees of the public health districts established under section
19 39-408, Idaho Code, shall be permitted to engage in the labeling and de-
20 livery of prepackaged items pursuant to a valid prescription drug order
21 and in accordance with a formulary established by the district health
22 director; and

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

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

28 (3) 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 thousand
30 dollars (\$3,000) for each offense. Each such violation of this chapter or
31 the rules promulgated hereunder pertaining to unlawfully engaging in the
32 practice of pharmacy shall also constitute a misdemeanor punishable upon
33 conviction as provided in the criminal code of this state.

34 SECTION 10. That Section 54-1722, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 54-1722. QUALIFICATIONS FOR LICENSURE BY EXAMINATION. (1) To obtain a
37 license to engage in the practice of pharmacy, an applicant for licensure by
38 examination shall:

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

41 (b) Have attained the age of majority;

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

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

1 (e) Have successfully passed an examination given by the board of phar-
2 macy; and

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

5 (2) Examinations. The examination shall be prepared to measure the
6 competence of the applicant to engage in the practice of pharmacy. The board
7 may employ and cooperate with any organization or consultant in the prepa-
8 ration and grading of an appropriate examination, but shall retain the sole
9 discretion and responsibility of determining which applicants have success-
10 fully passed such an examination.

11 (3) Internship and other training programs. All applicants for licen-
12 sure by examination shall obtain practical experience in the practice of
13 pharmacy concurrent with or after college attendance, or both, under such
14 terms and conditions as the board shall determine.

15 (4) Any applicant who is a graduate of a school or college of pharmacy
16 located outside the United States, the degree program of which has not been
17 approved by the board, but who is otherwise qualified to apply for a license
18 to practice pharmacy in this state, may be considered to have satisfied the
19 degree requirements of subsection (1) (d) of this section by verification to
20 the board of his academic record and his graduation and by meeting any other
21 requirements as the board may establish from time to time. The board may re-
22 quire that the applicant successfully pass an examination given or approved
23 by the board to establish proficiency in English and an equivalency of edu-
24 cation with qualified graduates of a degree program specified in subsection
25 (1) (d) of this section as a prerequisite of taking the licensure examination
26 as provided in subsection (1) (f) of this section.

27 SECTION 11. That Section 54-1723, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 54-1723. QUALIFICATIONS FOR LICENSURE BY RECIPROCITY. (1) To obtain a
30 license as a pharmacist by reciprocity, an applicant for licensure shall:

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

33 (b) Have attained the age of majority;

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

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

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

46 (~~fe~~) Have paid the fees specified by the board of pharmacy for issuance
47 of a license.

48 (2) Eligibility. No applicant shall be eligible for licensure by reci-
49 procity unless the state in which the applicant was initially licensed as a

1 pharmacist also grants reciprocal licensure to pharmacists duly licensed by
2 examination in this state, under like circumstances and conditions.

3 SECTION 12. That Section 54-1723A, Idaho Code, be, and the same is
4 hereby amended to read as follows:

5 54-1723A. ~~REGISTRATION~~ CERTIFICATE TO ENGAGE IN THE PRACTICE OF PHAR-
6 MACY INTO IDAHO. (1) To obtain a ~~registration~~ certificate to practice as a
7 pharmacist into the state of Idaho, the applicant shall:

8 (a) Be licensed and in good standing in the state from which the appli-
9 cant practices pharmacy;

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

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

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

14 (2) A successful applicant for ~~registration~~ a certificate under this
15 section shall be subject to the disciplinary provisions of section 54-1726,
16 Idaho Code, the penalty provisions of section 54-1728, Idaho Code, and the
17 rules of the board.

18 (3) A successful applicant for ~~registration~~ a certificate under this
19 section shall comply with the board's laws and rules of this state un-
20 less compliance would violate the laws or rules in the state in which the
21 ~~registrant~~ applicant is located.

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

26 SECTION 13. That Section 54-1723B, Idaho Code, be, and the same is
27 hereby amended to read as follows:

28 54-1723B. MULTISTATE PRACTICE OF PHARMACY. Notwithstanding any pro-
29 vision of law to the contrary:

30 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) Requires a fingerprint-based criminal history check prior to li-
20 censure that is substantially similar to the requirement in section
21 54-1718, Idaho Code; and

22 (c) Grants the same multistate practice privileges to Idaho phar-
23 macists, ~~registered~~ pharmacist interns, or ~~certified~~ technicians as
24 Idaho grants to the party state's pharmacists, ~~registered~~ pharmacist
25 interns, or ~~certified~~ technicians under like circumstances and condi-
26 tions.

27 (3) A pharmacist ~~license~~, pharmacist intern ~~registration~~, or ~~certified~~
28 technician license issued by a party state will be recognized by the board as
29 permitting the multistate practice of pharmacy in or into Idaho without a li-
30 cense ~~or registration~~ issued by the board provided the following conditions
31 are met:

32 (a) The party state is the primary state of residence for the multistate
33 licensee;

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

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

40 (i) If such a multistate licensee no longer meets the require-
41 ments in paragraph (a) of this subsection, the multistate licensee
42 must apply for licensure in the new primary state of residence
43 prior to relocating to the new primary state of residence. If the
44 pharmacist, pharmacist intern, or technician's new primary state
45 of residence is either Idaho or another party state, the pharma-
46 cist, pharmacist intern, or technician may continue to practice
47 until a new license is issued in the new primary state of resi-
48 dence.

49 (ii) If a multistate licensee no longer meets the requirements in
50 paragraph (b) of this subsection, the multistate licensee must im-

1 mediately cease engaging in the multistate practice of pharmacy in
2 or into Idaho, unless the multistate licensee obtains a license ~~or~~
3 ~~registration~~ issued by the board.

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

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

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

19 SECTION 14. That Section [54-1724](#), Idaho Code, be, and the same is hereby
20 repealed.

21 SECTION 15. That Section 54-1726, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 54-1726. GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may ~~refuse~~
24 ~~to issue or renew, or may suspend, revoke or restrict the license or regis-~~
25 ~~tration~~ penalize as set forth in section 54-1728, Idaho Code, a certificate
26 of any person, pursuant to the procedures set forth in chapter 52, title 67,
27 Idaho Code, upon one (1) or more of the following grounds:

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

30 (b) Incapacity of a nature that prevents a ~~pharmacist~~ person from en-
31 gaging in the practice of pharmacy with reasonable skill, competence
32 and safety to the public;

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

36 (i) Any crime ~~that is~~ deemed relevant in accordance with section
37 67-9411(1), Idaho Code;

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

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

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

45 (e) Engaging or aiding and abetting an individual to engage in the prac-
46 tice of pharmacy without a ~~license~~, certificate or falsely using the ti-
47 tle of pharmacist; and

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

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

7 SECTION 16. That Section 54-1727, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 54-1727. CONFIDENTIALITY OF PRESCRIPTIONS AND PATIENT INFORMA-
10 TION. (1) In addition to the requirements of the health insurance porta-
11 bility and accountability act of 1996, aAll prescriptions, drug orders,
12 records or any other prescription information that specifically identifies
13 an individual patient shall be held in the strictest confidence. No person
14 in possession of such information shall release the information, unless re-
15 quested as follows:

16 (a) By the board, or its representatives, acting in their official ca-
17 pacity;

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

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

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

24 ~~(e) By agents of the department of health and welfare when acting in~~
25 ~~their official capacity with reference to issues related to the prac-~~
26 ~~tice of pharmacy (written requests by authorized agents of the depart-~~
27 ~~ment requesting such information are required);~~

28 ~~(f) By agents of any board whose practitioners have prescriptive au-~~
29 ~~thority, when the board is enforcing laws governing that practitioner;~~

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

33 ~~(h) By the federal food and drug administration (FDA), for purposes re-~~
34 ~~lating to monitoring of adverse drug events in compliance with the re-~~
35 ~~quirements of federal law, rules or regulations adopted by the federal~~
36 ~~food and drug administration;~~

37 ~~(i) By the patient's authorized insurance benefit provider or health~~
38 ~~plan providing health care coverage or pharmacy benefits to the pa-~~
39 ~~tient.~~

40 ~~(j) Nothing in this section shall be construed to prohibit consulta-~~
41 ~~tions between health care professionals who are involved in the diagno-~~
42 ~~sis, care and treatment of the patient.~~

43 ~~(k) Nothing in this section shall prohibit insurance companies and~~
44 ~~health plans from sharing patient-specific information with law en-~~
45 ~~forcement authorities or any of the entities identified in subsections~~
46 ~~(1) (a) through (i) of this section, paragraphs (a) through (e) of this~~
47 ~~subsection in cases of suspected fraud and substance abuse; or~~

1 (1g) Nothing in this section shall prohibit disclosure of patient-specific
2 specific information to law enforcement authorities pursuant to a search
3 warrant, subpoena, or other court order.

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

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

15 (43) Nothing in this section shall limit the authority of the board
16 or its representatives from inspecting the records of ~~pharmacies or phar-~~
17 ~~macists~~ licensees and registrants or the authority of any other board with
18 licensees or registrants who have prescriptive authority from performing
19 any other duty or authority of that board, nor shall this section limit a
20 court of competent jurisdiction from ordering the release or disclosure of
21 such records upon a showing of just cause after such review or hearing as the
22 court deems necessary and proper. This section shall not limit the author-
23 ity of any other board or agency to inspect records of persons it regulates,
24 notwithstanding that the records may contain information protected by the
25 provisions of this section.

26 (54) In addition to all other penalties as provided by law, any person
27 or entity found by the board to be in violation of the provisions of this sec-
28 tion shall be subject to an administrative penalty not to exceed three thou-
29 sand dollars (\$3,000) for each violation.

30 (65) No person shall be liable, nor shall a cause of action exist, for
31 any loss or damage based ~~upon~~ on the proper good faith release of records pur-
32 suant to the provisions of ~~subsection (1) or (2) of this section.~~

33 SECTION 17. That Section 54-1728, Idaho Code, be, and the same is hereby
34 amended to read as follows:

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

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

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

44 (c) Restriction of the offender's ~~license or registration~~ certificate
45 to prohibit the offender from performing certain acts or from engaging
46 in the practice of pharmacy in a particular manner for a term to be de-
47 termined by the board;

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

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

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

5 (2) Whenever it appears that grounds for discipline exist under this
6 chapter and the board finds that there is an immediate danger to the pub-
7 lic health, safety, or welfare, the board is authorized to commence emer-
8 gency proceedings to suspend, revoke, or restrict the ~~license or registra-~~
9 ~~tion~~ certificate. Such proceedings shall be promptly instituted and pro-
10 cessed. Any person whose ~~license or registration~~ certificate has been dis-
11 ciplined pursuant to this subsection can contest the emergency proceedings
12 and appeal under the applicable provisions of chapter 52, title 67, Idaho
13 Code.

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

17 (4) The board may report any violation by a nonresident licensee or reg-
18 istrant, or its agent or employee, of the laws and rules of this state, the
19 state in which it resides or the United States to any appropriate state or
20 federal regulatory or licensing agency including, but not limited to, the
21 regulatory agency of the state in which the nonresident licensee or regis-
22 trant is a resident.

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

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

38 (76) The assessment of costs and fees incurred in the investigation
39 and prosecution or defense of a person holding a ~~license or registration,~~
40 seeking a ~~license or registration,~~ or renewing a ~~license or registration~~
41 certificate under this chapter shall be governed by the provisions of sec-
42 tion 12-117(5), Idaho Code.

43 (87) Any person or business entity whose license certificate to prac-
44 tice pharmacy in this state has been suspended, revoked, or restricted
45 pursuant to this chapter, ~~or any drug outlet whose certificate of registra-~~
46 ~~tion has been suspended, revoked or restricted pursuant to this chapter,~~
47 whether voluntarily or by action of the board, shall have the right, at rea-
48 sonable intervals, to petition the board for reinstatement of such license
49 certificate. Such petition shall be made in writing and in the form pre-
50 scribed by the board. Upon investigation and hearing, the board may in its

1 discretion grant or deny such petition, or it may modify its original finding
 2 to reflect any circumstances which have changed sufficiently to warrant such
 3 modifications.

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

7 (109) All final decisions by the board shall be subject to judicial re-
 8 view pursuant to the procedures of the administrative procedure act.

9 SECTION 18. That Section 54-1729, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or de-
 12 vice outlets doing business in or into Idaho shall:

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

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

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

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

22 (a) ~~Retail~~ Community pharmacy;

23 (b) Institutional facility;

24 (c) Manufacturer;

25 (d) Wholesaler;

26 (e) Prescriber drug outlet;

27 (f) Central drug outlet;

28 (g) Mail service pharmacy;

29 (h) Limited service outlet.

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

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

45 (5) If the regulatory board or licensing authority of the state in which
 46 a nonresident outlet is located fails or refuses to conduct an inspection or
 47 fails to obtain records or reports required by the board, upon reasonable no-
 48 tice to the nonresident outlet, the board may conduct an inspection. Nonres-
 49 ident outlets shall also pay the actual costs of the out-of-state inspection

1 of the outlet, including the transportation, lodging and related expenses of
2 the board's inspector.

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

7 (7) A successful applicant for ~~registration~~ a certificate under the
8 provisions of this section shall comply with the board's laws and rules of
9 this state unless compliance would violate the laws, regulations, or rules
10 in the state in which the licensee or registrant is located.

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

15 SECTION 19. That Chapter 17, Title 54, Idaho Code, be, and the same is
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
17 ignated as Section 54-1729A, Idaho Code, and to read as follows:

18 54-1729A. WHOLESALE DRUG DISTRIBUTOR -- LICENSURE. (1) In addition
19 to meeting federal requirements, every business entity that engages in the
20 wholesale distribution of prescription drugs in or into Idaho must be li-
21 censed by the board as a wholesale distributor except:

22 (a) Manufacturers distributing their own federal food and drug admin-
23 istration-approved drugs and devices, including distribution of pre-
24 scription drug samples by manufacturers' representatives and intracom-
25 pany sales, meaning any transaction or transfer between any division,
26 subsidiary, parent, or affiliated or related company under common own-
27 ership and control of a corporate entity or any transfer between col-
28 icensees of a colicensed product, unless particular requirements are
29 deemed necessary and appropriate following rulemaking;

30 (b) An entity that donates prescription drugs, when conducted in accor-
31 dance with sections 54-1760 through 54-1765, Idaho Code;

32 (c) A pharmacy distributing in accordance with section 54-1732, Idaho
33 Code; and

34 (d) Persons selling, purchasing, distributing, trading, or transfer-
35 ring a prescription drug for emergency medical reasons.

36 (2) The board shall not issue a wholesale distributor license to an
37 applicant unless the board determines that the designated representative
38 meets the following qualifications:

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

41 (b) Is physically present at the facility of the applicant during regu-
42 lar business hours, except when the absence of the designated represen-
43 tative is authorized, including but not limited to sick leave and vaca-
44 tion leave.

45 (3) All applicant-designated representatives shall submit to a fin-
46 gerprint-based criminal history check of the Idaho central criminal history
47 database and the federal bureau of investigation criminal history database.
48 Each applicant shall submit a completed ten (10) finger fingerprint card or

1 scan to the board of pharmacy at the time of application and shall pay the
2 cost of the criminal history check.

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

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

14 SECTION 20. That Section 54-1730, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall
17 specify by rule the ~~registration~~ procedures to be followed, including,
18 but not limited to, specification of forms for use in applying for such
19 certificates ~~of registration~~ and times, places and fees for filing such ap-
20 plication.

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

23 (a) Ownership; and

24 (b) Location.

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

27 (4) The board shall specify by rule minimum standards for the profes-
28 sional responsibility in the conduct of any outlet that has employees or per-
29 sonnel engaged in the practice of pharmacy. The board is specifically au-
30 thorized to require that the portion of the ~~facility pharmacy~~ to which ~~such~~
31 ~~certificate of registration~~ applies be operated only under the direct super-
32 vision of no less than one (1) pharmacist licensed to practice in this state,
33 and not otherwise, and to provide such other special requirements as deemed
34 necessary.

35 SECTION 21. That Section 54-1731, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 54-1731. NOTIFICATIONS. All ~~registered~~ drug outlets shall report to
38 the board of pharmacy the occurrence of any of the following changes:

39 (1) Permanent closing;

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

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

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

45 SECTION 22. 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 (~~§7~~), 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 section
14 54-1733D, Idaho Code, unless:

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

23 (ii) In the case of a legend drug dispensed to a person, there is
24 a label affixed to the immediate container in which such drug is
25 dispensed. Any person violating this subparagraph shall be guilty
26 of a misdemeanor and upon conviction thereof shall be fined not
27 more than five hundred dollars (\$500). Nothing in this subpara-
28 graph prohibits a practitioner from delivering professional sam-
29 ples of legend drugs in their original containers in the course of
30 his practice when oral directions for use are given at the time of
31 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 section 54-1733D, Idaho Code, by any
43 person unless such person obtains such drug on the prescription or drug
44 order of a practitioner. Any person guilty of violating the provisions
45 of this paragraph shall be guilty of a misdemeanor and upon conviction
46 thereof shall be incarcerated in the county jail for a term not to exceed
47 one (1) year or punished by a fine of not more than one thousand dollars
48 (\$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;

5 (ii) The sale of minimal quantities of prescription drugs to prac-
6 titioners for office use or to dispensing drug outlets for a spe-
7 cific patient need;

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

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

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

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

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

29 (g) It is unlawful to:

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

36 (ii) Communicate information to a practitioner in an effort un-
37 lawfully to procure a legend drug, or unlawfully to procure the ad-
38 ministration of any such drug. Any such communication shall not be
39 deemed a privileged communication;

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

42 (iv) For the purpose of obtaining a legend drug to falsely assume
43 the title of, or represent himself to be, a manufacturer, whole-
44 saler, pharmacist, physician, dentist, veterinarian dispenser,
45 prescriber, or other person;

46 (v) Make or utter any false or forged prescription or false drug
47 order or forged written order;

48 (vi) Affix any false or forged label to a package or receptacle
49 containing legend drugs. This subparagraph does not apply to law

1 enforcement agencies or their representatives while engaged in
 2 enforcing state and federal drug laws; or
 3 (vii) Wholesale or retail any prescription or legend drug to any
 4 person in this state not entitled by law to deliver such drug to
 5 another.

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

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

20 SECTION 23. That Section 54-1733A, Idaho Code, be, and the same is
 21 hereby amended to read as follows:

22 54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. A valid pre-
 23 scription drug order may be transmitted to a ~~licensed~~ registered pharmacy in
 24 accordance with federal law by the following means:

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

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

29 (a) Electronically in compliance with the uniform electronic transac-
 30 tions act, chapter 50, title 28, Idaho Code, or via a secure, interoper-
 31 able information technology system that exchanges data accurately and
 32 in compliance with applicable laws;

33 (b) Verbally; or

34 (c) Via facsimile.

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

37 54-1733B. OPIOID ANTAGONISTS. (1) Notwithstanding any other pro-
 38 vision of law, any health professional licensed or registered under this
 39 title, acting in good faith and exercising reasonable care, may prescribe
 40 and dispense an opioid antagonist to: any person or entity.

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

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

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

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

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

9 (3) Any person who prescribes, dispenses, or administers an opioid an-
 10 tagonist pursuant to subsection (1) or (2) of this section shall not be li-
 11 able in a civil or administrative action or subject to criminal prosecution
 12 for such acts.

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

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

18 54-1733D. EPINEPHRINE AUTO-INJECTORS -- PRESCRIPTION AND ADMINIS-
 19 TRATION. (1) Notwithstanding any other provision of law, any prescriber or
 20 pharmacist acting in good faith and exercising reasonable care may prescribe
 21 an epinephrine auto-injector to any person or entity.

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

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

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

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

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

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

38 (4) As used in this section, "epinephrine auto-injector" means a sin-
 39 gle-use device used for the automatic injection of a premeasured dose of epi-
 40 nephrine into the human body.

41 SECTION 26. That Section 54-1736, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 54-1736. DECLARATION OF COMMON NUISANCE. Any store, shop, warehouse,
 44 dwelling house, apartment, building, vehicle, boat, aircraft, or any place
 45 ~~whatever, which is whatsoever~~ used by any person for the purpose of unlaw-
 46 fully using any legend drug, or ~~which is~~ used for the unlawful keeping or
 47 selling of the same, is a common nuisance. No person shall keep, or maintain

1 such a common nuisance, ~~nor~~ or frequent or visit such place, knowing it to be
2 used for any said purposes.

3 SECTION 27. That Chapter 17, Title 54, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 54-1737A, Idaho Code, and to read as follows:

6 54-1737A. RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor
7 shall not engage in the wholesale distribution of prescription drugs pur-
8 chased from pharmacies or practitioners or from wholesale distributors that
9 purchase them from pharmacies or practitioners.

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

19 (3) Prescription drugs furnished by a manufacturer or wholesale dis-
20 tributor shall be delivered only to a principal place of business or a pro-
21 fessional practice.

22 SECTION 28. That Section 54-1739, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 54-1739. PROSPECTIVE DRUG REVIEW AND COUNSELING. (1) Before dispens-
25 ing any new prescription, a pharmacist shall complete a prospective drug re-
26 view.

27 (2) Before dispensing a prescription for a new medication, or when oth-
28 erwise deemed necessary or appropriate, a pharmacist shall counsel the pa-
29 tient or caregiver. Counseling shall include such supplemental written ma-
30 terials as required by law or as are customary in that practice setting. For
31 refills or renewed prescriptions, a pharmacist or a technician shall extend
32 an offer to counsel the patient or caregiver. If such offer is accepted, a
33 pharmacist shall provide such counseling as necessary or appropriate in the
34 professional judgment of the pharmacist. All counseling and offers to coun-
35 sel shall be face-to-face with the patient or caregiver when possible, but if
36 not possible, then a reasonable effort shall be made to contact the patient
37 or caregiver. Nothing in this section shall require a pharmacist to provide
38 counseling when a patient or caregiver refuses such counseling or when coun-
39 seling is otherwise impossible. Patient counseling shall not be required
40 for inpatients of a hospital or institutional facility when licensed health
41 care professionals administer the medication.

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

43 SECTION 29. That Section 54-1751, Idaho Code, be, and the same is hereby
44 repealed.

1 SECTION 30. That Section [54-1752](#), Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 31. That Section [54-1753](#), Idaho Code, be, and the same is hereby
4 repealed.

5 SECTION 32. That Section [54-1754](#), Idaho Code, be, and the same is hereby
6 repealed.

7 SECTION 33. That Section [54-1757](#), Idaho Code, be, and the same is hereby
8 repealed.

9 SECTION 34. That Section [54-1758](#), Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 35. That Section [54-1759](#), Idaho Code, be, and the same is hereby
12 repealed.

13 SECTION 36. That Section 54-1761, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765,
16 Idaho Code:

17 (1) "Donation repository" means:

18 (a) A community health center as defined in section 39-3203, Idaho
19 Code;

20 (b) A free medical clinic as defined in section 39-7702, Idaho Code;

21 (c) A designated regional behavioral health center as identified in
22 chapter 31, title 39, Idaho Code;

23 (d) A state charitable institution as defined in chapter 1, title 66,
24 Idaho Code; or

25 (e) A drug outlet as defined in section 54-1705, Idaho Code.

26 (2) "Legend drug" has the same meaning as provided in section
27 54-1705(358), Idaho Code.

28 (3) "Medically indigent patient" means any person who is a resident of
29 Idaho and who meets one (1) of the following conditions:

30 (a) The person is not eligible for medicaid or medicare;

31 (b) The person cannot afford private prescription drug insurance; or

32 (c) The person does not have income and other resources available suf-
33 ficient to pay for a legend drug.

34 (4) "Qualified donor" means:

35 (a) Any entity that meets the definition of "donation repository" as
36 provided in this section; or

37 (b) Any member of the public in accordance with section 54-1762, Idaho
38 Code.

39 SECTION 37. That Section 54-1762A, Idaho Code, be, and the same is
40 hereby amended to read as follows:

41 54-1762A. DRUG DONATION FOR ANIMALS. Notwithstanding any other pro-
42 vision of law:

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

6 (2) A licensed veterinarian or a veterinary medical facility may accept
 7 and reissue drugs donated pursuant to this section and from qualified donors
 8 listed in section 54-1762~~1~~(4), Idaho Code, if:

9 (a) The drug is not expired;

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

11 (c) The drug is not a controlled substance; and

12 (d) The drug is not a compounded drug; ~~and~~

13 ~~(e) If a liquid, the drug is packaged in a single dose in an ampule or~~
 14 ~~vial.~~

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

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

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

22 (b) A nonprofit animal shelter; or

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

24 SECTION 38. That Section 54-1764, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 54-1764. IMMUNITY FROM LIABILITY. Any entity that lawfully and volun-
 27 tarily participates by donating, accepting, distributing or dispensing leg-
 28 end drugs under the Idaho legend drug donation act shall be immune from lia-
 29 bility for any civil action arising out of the provision of such action. This
 30 section shall not extend immunity to the participating entity for any acts
 31 constituting intentional, willful or grossly negligent conduct or to acts by
 32 a participating entity that are outside the scope of practice authorized by
 33 the entity's ~~license, certification or registration~~ certificate.

34 SECTION 39. That Section 54-1765, Idaho Code, be, and the same is hereby
 35 repealed.

36 SECTION 40. That Section 54-4702, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 54-4702. DEFINITIONS. As used in this chapter:

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

1 include herbal and nutritional treatments, therapeutic exercise and other
2 therapies based on traditional and modern Oriental medical theory.

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

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

6 (4) "Practice of acupuncture" means the insertion of acupuncture nee-
7 dles and use of similar devices and therapies, including application of mox-
8 ibustion, to specific indicated points on the skin of the human body as indi-
9 cated pursuant to traditional and modern theories of Oriental medicine. The
10 "practice of acupuncture" does not include:

11 (a) Surgery; or

12 (b) Prescribing, dispensing or administering any prescription drug or
13 legend drug as defined in section 54-1705 (3~~5~~8), Idaho Code.