

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 503

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PRESCRIPTION DRUG ORDERS; AMENDING SECTION 54-1733, IDAHO CODE,
TO PROVIDE FOR AN EXCEPTION, TO ESTABLISH PROVISIONS RELATING TO CIR-
CUMSTANCES WHERE A PRESCRIBER MAY PERFORM CERTAIN ACTIVITIES FOR A PA-
TIENT WITH WHOM THE PRESCRIBER DOES NOT HAVE A PRESCRIBER-PATIENT RE-
LATIONSHIP AND TO ESTABLISH PROVISIONS RELATING TO UNPROFESSIONAL CON-
DUCT.

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

SECTION 1. That Section 54-1733, Idaho Code, be, and the same is hereby
amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) Except as pro-
vided in subsection (4) of this section, a prescription drug order for a
legend drug is not valid unless it is issued for a legitimate medical purpose
arising from a prescriber-patient relationship which includes a documented
patient evaluation adequate to establish diagnoses and identify underlying
conditions and/or contraindications to the treatment. Treatment, including
issuing a prescription drug order, based solely on an online questionnaire
or consultation outside of an ongoing clinical relationship does not consti-
tute a legitimate medical purpose. A prescription drug order may be issued
either:

(a) By a practitioner acting in the usual course of his profession; or

(b) By a physician, dentist, veterinarian, scientific investigator or
other person, other than a pharmacist, who is licensed in a jurisdic-
tion other than the state of Idaho and is permitted by such license to
dispense, conduct research with respect to or administer the prescribed
legend drugs in the course of his professional practice or research in
such jurisdiction, so long as the individual is acting within the juris-
diction, scope and authority of his license when issuing the prescrip-
tion drug order.

(c) The prescription drug order may be signed and sent electronically
pursuant to chapter 50, title 28, Idaho Code.

(d) Transmission of prescription drug order. In addition to delivery
of the original signed written prescription drug order to a licensed
pharmacy:

(i) A prescription drug order that has been signed by the practi-
tioner may be received by a licensed pharmacy for dispensing pur-
poses through a facsimile transmission from the prescribing prac-
titioner or the practitioner's agent, or from an institutional fa-
cility for a patient or resident in such facility;

(ii) A prescription drug order may also be received by a licensed
pharmacist verbally from the practitioner, the practitioner's
agent or from a licensed practical nurse or licensed professional

nurse in an institutional facility for a patient or resident in such facility;

(iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed institutional facility for a patient or resident in such facility may also be sent by facsimile transmission from the institutional facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.

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

(i) The request is generated from the pharmacy;

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

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

(iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and

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

(2) It is unlawful for a practitioner to knowingly issue an invalid prescription drug order for a legend drug.

(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription drug order for a legend drug.

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

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

(b) Writing a prescription for a patient of another prescriber for whom the prescriber is taking call;

(c) Writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;

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

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

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

(g) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to

1 the infected patient's named sexual partner or partners for treatment
2 of the sexually transmitted disease as recommended by the most current
3 centers for disease control and prevention (CDC) guidelines.

4 (5) Prescribing drugs to individuals without a prescriber-patient re-
5 lationship and not in accordance with this section shall be unprofessional
6 conduct and the prescriber shall be subject to discipline according to the
7 provisions of the Idaho Code chapter pursuant to which the prescriber is li-
8 censed, certified or registered.