TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 17
PHARMACISTS

54-1701. SHORT TITLE. This chapter shall be known as the "Idaho Pharmacy Act."

[54-1701, added 1979, ch. 131, sec. 3, p. 404.; am. 2013, ch. 28, sec. 2, p. 52.]

54-1702. LEGISLATIVE DECLARATION. The practice of pharmacy in the state of Idaho is declared a professional practice affecting the health, safety and welfare of the public and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in this chapter, merits and receives the confidence of the public and that only qualified persons be permitted to engage in the practice of pharmacy in or into the state of Idaho. This chapter shall be liberally construed to carry out these objects and purposes.

[54-1702, added 1979, ch. 131, sec. 3, p. 404.; am. 2013, ch. 28, sec. 3, p. 52.]

54-1703. STATEMENT OF PURPOSE. It is the purpose of this act to promote, preserve and protect the health, safety and welfare of the public by and through the effective control and regulation of the practice of pharmacy and of the registration of drug outlets engaged in the manufacture, production, sale and distribution of drugs, medications, devices and such other materials as may be used in the diagnosis and treatment of injury, illness and disease.

[54-1703, added 1979, ch. 131, sec. 3, p. 404.]

54-1704. DEFINITIONS. In this chapter:

(1) "Accredited school or college of pharmacy" means a school or college that meets the minimum standards of the accreditation council for pharmacy education and appears on its list of accredited schools or colleges of pharmacy.

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

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

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

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

(6) "Collaborative pharmacy practice" means a pharmacy practice where one (1) or more pharmacists or pharmacies jointly agree to work under a pro-

tocol authorized by one (1) or more prescribers to provide patient care and drug therapy management services not otherwise permitted to be performed by a pharmacist under specified conditions.

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

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

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

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

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

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

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

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

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

(13) "Distributor" means a supplier of drugs manufactured, produced, or prepared by others to persons other than the ultimate consumer.

(14) "Donation repository" means:

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

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

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

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

(e) A drug outlet as defined in this section.

(15) "Drug" means:

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

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

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

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

(16) "Drug outlet" means a resident or nonresident pharmacy, business entity or other facility subject to registration by the board, pursuant to section 54-1729, Idaho Code, where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

(17) "Drug therapy management" means selecting, initiating, or modifying drug treatment pursuant to a collaborative pharmacy practice agreement.

(18) "Epinephrine auto-injector" means a single-use device for the automatic injection of a premeasured dose of epinephrine into the human body.

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

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

(21) "Internship" means a practical experience program under the supervision of a preceptor.

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

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

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

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

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

(25) "Manufacturer" means a person who is licensed or approved by the federal food and drug administration to engage in the manufacture of drugs, including a colicensed partner or affiliate of that person, who compounds, cultivates, derives, harvests, mixes, or by other process produces or prepares legend drugs and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process,

or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(26) "Medically indigent patient" means a resident of Idaho who:

(a) Is not eligible for medicaid or medicare;

(b) Cannot afford private prescription drug insurance; or

(c) Does not have income and other resources available sufficient to pay for a legend drug.

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

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

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

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

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

(32) "Multistate technician" means a nonresident technician who is licensed by a party state and is not otherwise registered by the board.

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

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

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

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

(37) "Opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

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

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

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

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

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

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

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

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

(46) "Practice of pharmacy" means the safe interpretation, evaluation, compounding, administration, and dispensing of prescription drug orders, patient counseling, collaborative pharmacy practice, provision of pharmaceutical care services, proper storage of drugs and devices, and prescribing of drugs and devices as may be further defined in this chapter.

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

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

(49) "Precursor" means a substance, other than a legend drug, that is an immediate chemical intermediate that can be processed or synthesized into a legend drug and is used or produced primarily for use in the manufacture of a legend drug.

(50) "Prepackaging" means the act of transferring a drug, manually or using an automated system, from a manufacturer's original container to another container prior to receiving a prescription drug order.

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

(52) "Prescriber drug outlet" means a drug outlet in which prescription drugs or devices are dispensed directly to patients under the supervision of a prescriber, except where delivery is accomplished only through on-site administration or the provision of drug samples, patient assistance program drugs, or investigational drugs as permitted in chapter 94, title 39, Idaho Code.

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

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

(b) "Rx Only"; or

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

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

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

(55) "Primary state of residence" means the multistate licensee's declared primary state of residence as evidenced by a valid state or federal identification card with a home address or another form of identification accepted by the board.

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

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

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

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

(d) Evaluation of the prescription drug order for proper utilization.

(57) "Qualified donor" means:

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

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

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

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

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

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

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

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

(c) Holding, storing or any other possession;

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

(e) Applying, administering or any other usage.

(62) "Technician" means an individual authorized by registration with the board to perform pharmacy support services under the direction of a pharmacist.

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

(64) "USP" means United States pharmacopoeia.

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

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

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

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

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

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

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

[(54-1704) 54-1705, added 1979, ch. 131, sec. 3, p. 404; am. 1989, ch. 193, sec. 14, p. 483; am. 1992, ch. 179, sec. 2, p. 565; am. 1993, ch. 49, sec. 2, p. 126; am. 2000, ch. 103, sec. 1, p. 228; am. 2000, ch. 274, sec. 132, p. 866; am. 2002, ch. 26, sec. 1, p. 29; am. 2006, ch. 290, sec. 1, p. 888; am. 2008, ch. 51, sec. 1, p. 124; am. 2009, ch. 244, sec. 3, p. 749; am. 2011, ch. 135, sec. 2, p. 375; am. 2013, ch. 28, sec. 5, p. 53; am. 2013, ch. 270, sec. 1, p. 698; am. 2014, ch. 146, sec. 2, p. 392; am. 2015, ch. 28, sec. 1, p. 44; am. 2018, ch. 37, sec. 1, p. 77; am. 2019, ch. 161, sec. 10, p. 539; am. 2020, ch. 14, sec. 4, p. 43; am. 2021, ch. 54, sec. 2, p. 159; am. 2022, ch. 45, sec. 2, p. 124; am. 2022, ch. 178, sec. 1, p. 576; am. 2023, ch. 218, sec. 15, p. 620; am. and redesig. 2024, ch. 69, sec. 1, p. 340.]

54-1705. PRACTICE OF PHARMACY -- GENERAL APPROACH. To evaluate whether a specific act is within the practice of pharmacy in or into Idaho, or whether an act can be delegated to other individuals under his supervision, a licensee or registrant of the board of pharmacy shall independently determine whether:

(1) The act is expressly prohibited by:

(a) This chapter;

(b) The uniform controlled substances act, chapter 27, title 37, Idaho Code;

(c) The rules of the board of pharmacy; or

(d) Any other applicable state or federal laws or regulations;

(2) The act is consistent with the individual's education, training, and experience; and

(3) Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent individual with similar education, training, and experience.

[54-1705, added 2024, ch. 69, sec. 2, p. 346.]

54-1705A. PRESCRIBER PERFORMANCE OF PHARMACY FUNCTIONS. For the purposes of this chapter, any function that a pharmacist may perform may

similarly be performed by an Idaho prescriber or may be delegated by an Idaho prescriber to appropriate support personnel in accordance with the prescriber's practice act.

[54-1705A, added 2024, ch. 69, sec. 3, p. 346.]

54-1706. STATE BOARD OF PHARMACY ESTABLISHED. There is hereby established in the division of occupational and professional licenses a state board of pharmacy whose responsibilities shall be to enforce the provisions of this act. The board shall have all of the duties, powers and authority specifically granted by and necessary to the enforcement of this act, as well as such other duties, powers and authority as it may be granted from time to time by appropriate statute.

[54-1706, added 1979, ch. 131, sec. 3, p. 408; am. 2021, ch. 222, sec. 15, p. 630.]

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

[54-1707, added 1979, ch. 131, sec. 3, p. 408.; am. 2013, ch. 65, sec. 1, p. 161; am. 2021, ch. 54, sec. 3, p. 164; am. 2024, ch. 69, sec. 4, p. 346.]

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

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

(a) Be residents of the state of Idaho;

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

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

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

[54-1708, added 1979, ch. 131, sec. 3, p. 408.]

54-1709. APPOINTMENT OF BOARD MEMBERS -- NOTICE OF VACANCY -- NOMINEES. Prior to the expiration of the regular term of a member of the board or upon the occurrence of declaration of a vacancy in the membership of the board, the governor shall appoint a qualified person to fill the vacancy. The governor may consider recommendations for appointment to the board from

the Idaho state pharmacy association and from any individual residing in this state.

[54-1709, added 1979, ch. 131, sec. 3, p. 409; am. 1997, ch. 22, sec. 1, p. 32; am. 2016, ch. 340, sec. 20, p. 943.]

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

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

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

(4) An appointee to a full term on the board shall become a member on July 1 of the year of appointment. Appointees to unexpired portions of full terms shall become members of the board upon appointment.

[54-1710, added 1979, ch. 131, sec. 3, p. 409.; am. 2016, ch. 71, sec. 1, p. 248; am. 2021, ch. 54, sec. 4, p. 164; am. 2024, ch. 69, sec. 5, p. 347.]

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

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

(3) The administrator of the division of occupational and professional licenses shall carry out the duties set forth in chapter 26, title 67, Idaho Code, on behalf of the board.

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

[54-1713, added 1979, ch. 131, sec. 3, p. 410.; am. 2016, ch. 71, sec. 2, p. 248; am. 2016, ch. 341, sec. 3, p. 967; am. 2021, ch. 221, sec. 6, p. 612; am. 2024, ch. 69, sec. 8, p. 347.]

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

[54-1714, added 1979, ch. 131, sec. 3, p. 410; am. 1980, ch. 247, sec. 63, p. 627; am. 1982, ch. 260, sec. 1, p. 671; am. 1996, ch. 237, sec. 2,

p. 767; am. 2016, ch. 71, sec. 3, p. 249; am. 2021, ch. 221, sec. 7, p. 612.]

54-1716. EMPLOYEES. (1) The board of pharmacy may, in its discretion, employ persons in addition to the executive director in such other positions or capacities as it deems necessary to the proper conduct of board business and to the fulfillment of the board's responsibilities as defined by this act.

(2) The employees of the board other than the executive director and the board's chief controlled substance investigator under chapter 27, title 37, Idaho Code, shall be classified employees and shall receive, as compensation, an annual salary payable on regular pay periods, the amount of which shall be determined by the division of human resources classification and compensation plan set forth in section 67-5309, Idaho Code, and reimbursement for all expenses incurred in connection with performance of their official duties.

[54-1716, added 1979, ch. 131, sec. 3, p. 411; am. 2000, ch. 353, sec. 1, p. 1187.; am. 2023, ch. 6, sec. 1, p. 10.]

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

[54-1717, added 1979, ch. 131, sec. 3, p. 411; am. 2019, ch. 25, sec. 1, p. 38.]

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

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

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

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

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

(2) The board of pharmacy shall require the following applicants to submit to a fingerprint-based criminal history check in accordance with section 67-9411A, Idaho Code:

(a) Original applicants for a certificate, unless exempted by board rule; and

(b) Applicants for reinstatement of a certificate.

[54-1718, added 1979, ch. 131, sec. 3, p. 411; am. 2010, ch. 63, sec. 1, p. 112; am. 2015, ch. 36, sec. 1, p. 75; am. 2018, ch. 37, sec. 2, p. 81; am. 2021, ch. 54, sec. 6, p. 165; am. 2024, ch. 69, sec. 10, p. 347; am. 2024, ch. 101, sec. 2, p. 447.]

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

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

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

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

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

[54-1719, added 1979, ch. 131, sec. 3, p. 412; am. 1990, ch. 144, sec. 1, p. 324; am. 2013, ch. 270, sec. 2, p. 702; am. 2021, ch. 54, sec. 7, p. 165.]

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

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

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

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

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

(b) All fees, charges, and fines received by the board under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses fund, and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

(5) In addition to its annual appropriations, the board may solicit and receive, from parties other than the state, grants, moneys, donations and gifts of tangible and intangible property for any purpose consistent with

this act, which may be specified as a condition of any grants, donations or gifts. Such moneys may be solicited or received provided:

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

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

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

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

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

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

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

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

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

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

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

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

[54-1720, added 1979, ch. 131, sec. 3, p. 412; am. 1980, ch. 354, sec. 1, p. 915; am. 1985, ch. 152, sec. 2, p. 406; am. 1994, ch. 180, sec. 100, p. 491; am. 1994, ch. 348, sec. 1, p. 1104; am. 2013, ch. 28, sec. 6, p. 57; am. 2018, ch. 37, sec. 3, p. 82; am. 2019, ch. 25, sec. 2, p. 38; am. 2021, ch. 54, sec. 8, p. 166; am. 2021, ch. 224, sec. 44, p. 674.]

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

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

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

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

(d) A veterinary drug outlet, as defined in section 54-1704, Idaho Code, does not need to register with the board if the outlet does not dispense for outpatient use any controlled substances listed in chapter 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuromuscular paralyzing drugs or general anesthesia drugs;

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

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

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

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

[54-1721, added 1979, ch. 131, sec. 3, p. 415; am. 2010, ch. 346, sec. 1, p. 904; am. 2013, ch. 28, sec. 7, p. 59; am. 2018, ch. 37, sec. 4, p. 84; am. 2019, ch. 25, sec. 3, p. 41; am. 2021, ch. 54, sec. 9, p. 167; am. 2024, ch. 69, sec. 11, p. 348.]

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

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

(b) Graduate and receive the first professional degree from an accredited school or college of pharmacy;

(c) Pass the North American pharmacist licensure examination by the national association of boards of pharmacy or submit a passing score transfer into Idaho within ninety (90) days after application; and

(d) Pay the fees specified by the board of pharmacy for examination and issuance of license.

(2) Any applicant who is a graduate of a school or college of pharmacy located outside of the United States may substitute the following for subsection (1)(b) of this section:

(a) Graduate from a school or college of pharmacy located outside of the United States;

(b) Submit certification by the foreign pharmacy graduate examination committee; and

(c) Complete a minimum of one thousand seven hundred forty (1,740) experiential hours as verified on an employer's affidavit, signed by a pharmacist licensed and practicing in the United States.

[54-1722, added 2024, ch. 69, sec. 13, p. 349.]

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

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

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

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

(d) Pay the fees specified by the board of pharmacy for issuance of a license.

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

[54-1723, added 1979, ch. 131, sec. 3, p. 416; am. 2005, ch. 218, sec. 1, p. 693; am. 2017, ch. 24, sec. 1, p. 43; am. 2018, ch. 37, sec. 6, p. 86; am. 2021, ch. 54, sec. 11, p. 169; am. 2024, ch. 69, sec. 14, p. 349.]

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

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

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

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

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

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

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

(4) Renewal shall be required biennially and submitted to the board no later than the applicant's birthday. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of the certificate.

[54-1723A, added 2009, ch. 244, sec. 4, p. 752; am. 2010, ch. 116, sec. 1, p. 242; am. 2013, ch. 28, sec. 8, p. 60; am. 2014, ch. 34, sec. 1, p. 54; am. 2018, ch. 37, sec. 7, p. 88; am. 2021, ch. 54, sec. 12, p. 169; am. 2024, ch. 86, sec. 12, p. 396.]

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

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

(a) Has substantially similar requirements for drug outlet registration as required in section 54-1730, Idaho Code, pharmacist licensure, as required in section 54-1722, Idaho Code, or pharmacist intern and technician registration, as required by board rule, or both;

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

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

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

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

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

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

(i) If such a multistate licensee no longer meets the requirements in paragraph (a) of this subsection, the multistate licensee must apply for licensure in the new primary state of residence prior to relocating to the new primary state of residence. If

the pharmacist, pharmacist intern, or technician's new primary state of residence is either Idaho or another party state, the pharmacist, pharmacist intern, or technician may continue to practice until a new license is issued in the new primary state of residence.

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

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

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

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

[54-1723B, added 2019, ch. 25, sec. 4, p. 42; am. 2021, ch. 54, sec. 13, p. 170; am. 2022, ch. 45, sec. 3, p. 129.]

54-1725. CONTINUING PHARMACY EDUCATION. The board may determine which continuing education programs are accredited, the amount of continuing education to be required, and other rules pertaining to continuing education.

[54-1725, added 1979, ch. 131, sec. 3, p. 417; am. 2018, ch. 37, sec. 9, p. 88; am. 2020, ch. 14, sec. 7, p. 48.]

54-1726. GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may penalize as set forth in section 54-1728, Idaho Code, a certificate of any person, pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, upon one (1) or more of the following grounds:

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

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

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

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

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

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

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

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

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

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

[54-1726, added 1979, ch. 131, sec. 3, p. 417; am. 1985, ch. 152, sec. 3, p. 409; am. 1988, ch. 12, sec. 1, p. 15; am. 1993, ch. 216, sec. 70, p. 650; am. 2013, ch. 28, sec. 9, p. 61; am. 2020, ch. 175, sec. 22, p. 525; am. 2021, ch. 54, sec. 15, p. 171.]

54-1727. CONFIDENTIALITY OF PRESCRIPTIONS AND PATIENT INFORMATION. (1) In addition to the requirements of the health insurance portability and accountability act of 1996, all prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient shall be held in the strictest confidence. No person in possession of such information shall release the information, unless requested as follows:

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

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

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

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

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

(f) Nothing in this section shall prohibit insurance companies and health plans from sharing patient-specific information with law enforcement authorities or any of the entities identified in paragraphs (a) through (e) of this subsection in cases of suspected fraud and substance abuse; or

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

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

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

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

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

[54-1727, added 2000, ch. 189, sec. 1, p. 465; am. 2007, ch. 140, sec. 1, p. 405; am. 2021, ch. 54, sec. 16, p. 172.]

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

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

(b) Revocation of the offender's certificate;

(c) Restriction of the offender's certificate to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;

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

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

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

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

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

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

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

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

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

(8) Nothing herein shall be construed as barring criminal prosecutions for violations of the act where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

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

[54-1728, added 1979, ch. 131, sec. 3, p. 419; am. 1985, ch. 152, sec. 4, p. 409; am. 1995, ch. 42, sec. 1, p. 63; am. 2013, ch. 28, sec. 10, p. 62; am. 2018, ch. 37, sec. 10, p. 89; am. 2018, ch. 348, sec. 8, p. 804; am. 2019, ch. 25, sec. 5, p. 43; am. 2021, ch. 54, sec. 17, p. 173.]

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

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

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

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

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

(a) Resident drug outlet;

(b) Nonresident drug outlet;

(c) Manufacturer;

(d) Wholesaler; or

(e) Prescriber drug outlet.

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

tion (2) of this section where the board deems it necessary by reason of the type of outlet requesting a certificate.

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

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

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

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

(8) Renewal shall be required biennially and submitted to the board in accordance with the provisions of section 67-2614, Idaho Code. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of a certificate.

[54-1729, added 1979, ch. 131, sec. 3, p. 420; am. 1985, ch. 21, sec. 1, p. 33; am. 2009, ch. 244, sec. 5, p. 753; am. 2011, ch. 135, sec. 3, p. 379; am. 2013, ch. 28, sec. 11, p. 63; am. 2014, ch. 34, sec. 2, p. 55; am. 2018, ch. 37, sec. 11, p. 90; am. 2019, ch. 25, sec. 6, p. 44; am. 2021, ch. 54, sec. 18, p. 174; am. 2022, ch. 178, sec. 2, p. 580; am. 2024, ch. 86, sec. 13, p. 397.]

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

(a) Manufacturers distributing their own federal food and drug administration-approved drugs and devices, including distribution of prescription drug samples by manufacturers' representatives and intracompany sales, meaning any transaction or transfer between any division, subsidiary, parent, or affiliated or related company under common ownership and control of a corporate entity or any transfer between colicensees of a colicensed product, unless particular requirements are deemed necessary and appropriate following rulemaking;

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

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

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

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

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

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

(3) All applicant-designated representatives shall submit to a fingerprint-based criminal history check in accordance with section 67-9411A, Idaho Code.

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

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

[54-1729A, added 2021, ch. 54, sec. 19, p. 175; am. 2024, ch. 101, sec. 3, p. 448.]

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

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

(a) Ownership; and

(b) Location.

(3) Certificates issued by the board pursuant to this chapter are not transferable or assignable.

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

[54-1730, added 1979, ch. 131, sec. 3, p. 420; am. 2013, ch. 28, sec. 12, p. 64; am. 2018, ch. 37, sec. 12, p. 91; am. 2019, ch. 25, sec. 7, p. 45; am. 2021, ch. 54, sec. 20, p. 176.]

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

(1) Permanent closing;

(2) Change of ownership or location;

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

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

[54-1731, added 1979, ch. 131, sec. 3, p. 421; am. 2019, ch. 25, sec. 8, p. 46; am. 2021, ch. 54, sec. 21, p. 177.]

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

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

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

(a) The sale, delivery or administration of any prescription drug or legend drug, except an emergency medication pursuant to section 54-1735, Idaho Code, unless:

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

(ii) In the case of a legend drug dispensed to a person, there is a label affixed to the immediate container in which such drug is dispensed. Any person violating this subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug, except as designated on the prescription or drug order or by the authorization of the practitioner, or in accordance with board rule. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year or punished by a fine of not more than one thousand dollars ($1,000), or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor, except an emergency medication pursuant to section 54-1735, Idaho Code, by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed

one (1) year or punished by a fine of not more than one thousand dollars ($1,000), or by both such fine and incarceration.

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

(i) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets;

(ii) The sale of minimal quantities of prescription drugs to practitioners for office use or to dispensing drug outlets for a specific patient need;

(iii) The sale of a prescription drug for emergency medical reasons, but never to a wholesale distributor;

(iv) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees or a colicensed product, but never to a wholesale distributor; or

(v) Other exemptions as permitted by federal law.

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

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

(g) It is unlawful to:

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

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

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

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, dispenser, prescriber, or other person;

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

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

enforcement agencies or their representatives while engaged in enforcing state and federal drug laws; or

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

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

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

[54-1732, added 1979, ch. 131, sec. 3, p. 421; am. 1985, ch. 43, sec. 1, p. 91; am. 2010, ch. 113, sec. 1, p. 231; am. 2013, ch. 28, sec. 13, p. 65; am. 2014, ch. 146, sec. 3, p. 396; am. 2015, ch. 28, sec. 2, p. 48; am. 2015, ch. 88, sec. 2, p. 218; am. 2016, ch. 264, sec. 2, p. 694; am. 2018, ch. 348, sec. 9, p. 805; am. 2019, ch. 25, sec. 9, p. 46; am. 2019, ch. 82, sec. 1, p. 194; am. 2020, ch. 14, sec. 14, p. 50; am. 2021, ch. 54, sec. 22, p. 177; am. 2024, ch. 69, sec. 15, p. 350.]

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription drug order for a legend drug is valid only if it is issued by a prescriber for a legitimate medical purpose arising from a prescriber-patient relationship that includes a documented patient evaluation adequate to establish diagnoses, if applicable, and identify underlying conditions and/or contraindications to the treatment. A valid prescriber-patient relationship may be established through virtual care technologies, provided that the applicable Idaho community standard of care must be satisfied.

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

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

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

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

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

(e) Writing a prescription for an emergency medication pursuant to section 54-1735, Idaho Code;

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

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

(h) If a prescriber makes a diagnosis of an infectious disease in a patient, prescribe or dispense antimicrobials to an individual who has been exposed to the infectious person in accordance with clinical guidelines.

(3) Treatment, including issuing a prescription drug order, based solely on a static online questionnaire does not constitute a legitimate medical purpose.

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

(5) The following acts shall be unlawful:

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

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

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

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

[54-1733, added 1979, ch. 131, sec. 3, p. 423; am. 1985, ch. 43, sec. 2, p. 93; am. 2000, ch. 276, sec. 2, p. 899; am. 2006, ch. 117, sec. 1, p. 330; am. 2006, ch. 290, sec. 2, p. 893; am. 2007, ch. 90, sec. 25, p. 262; am. 2007, ch. 245, sec. 1, p. 722; am. 2010, ch. 112, sec. 1, p. 229; am. 2011, ch. 135, sec. 4, p. 380; am. 2012, ch. 163, sec. 1, p. 442; am. 2014, ch. 146, sec. 4, p. 398; am. 2015, ch. 26, sec. 1, p. 39; am. 2015, ch. 88, sec. 3, p. 219; am. 2016, ch. 264, sec. 3, p. 696; am. 2018, ch. 37, sec. 13, p. 92; am. 2019, ch. 25, sec. 10, p. 48; am. 2020, ch. 14, sec. 15, p. 52; am. 2023, ch. 102, sec. 1, p. 302; am. 2024, ch. 69, sec. 16, p. 352.]

54-1734. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. A valid prescription drug order may be transmitted to a registered pharmacy in accordance with federal law by the following means:

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

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

(a) Electronically in compliance with the uniform electronic transactions act, chapter 50, title 28, Idaho Code, or via a secure, interoperable information technology system that exchanges data accurately and in compliance with applicable laws;

(b) Verbally; or

(c) Via facsimile.

[(54-1734) 54-1733A, added 2015, ch. 26, sec. 2, p. 41; am. 2018, ch. 37, sec. 14, p. 93; am. 2019, ch. 25, sec. 11, p. 50; am. 2021, ch. 54, sec. 23, p. 179; am. and redesig. 2024, ch. 69, sec. 17, p. 353.]

54-1735. EMERGENCY MEDICATIONS. (1) Notwithstanding any other provision of law, any health professional licensed or registered under this title acting in good faith and exercising reasonable care may prescribe, distribute, dispense, and administer an emergency medication to any person or entity. Any person who prescribes, distributes, dispenses, or administers an emergency medication pursuant to this subsection shall not be liable in a civil or administrative action or subject to criminal prosecution for such acts.

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may distribute or dispense emergency medication to any person or entity and may administer emergency medication to any person who appears to be experiencing anaphylaxis or an opiate-related overdose. The administering person shall contact emergency medical services as soon as possible. Any person who distributes, dispenses, or administers emergency medication pursuant to this subsection shall not be liable in a civil or administrative action or subject to criminal prosecution for such acts.

(3) For the purposes of this section, "emergency medication" includes:

(a) Opioid antagonists; and

(b) Epinephrine auto-injectors.

[54-1735, added 2024, ch. 69, sec. 20, p. 353.]

54-1736. DECLARATION OF COMMON NUISANCE. Any store, shop, warehouse, dwelling house, apartment, building, vehicle, boat, aircraft, or any place whatsoever used by any person for the purpose of unlawfully using any legend drug, or used for the unlawful keeping or selling of the same, is a common nuisance. No person shall keep or maintain such a common nuisance, or frequent or visit such place, knowing it to be used for any said purposes.

[54-1736, added 1979, ch. 131, sec. 3, p. 424; am. 2021, ch. 54, sec. 26, p. 180.]

54-1737. BURDEN OF PROOF. (a) In any complaint, information, affidavit or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, proviso, or exemption contained in this chapter, the burden of proof is upon the party claiming any such exception, excuse, proviso or exemption.

(b) Anyone wholesaling or retailing prescription or legend drugs shall bear the burden of ascertaining that the receiver of such drugs is entitled by law to administer, dispense or deliver such drugs and proof that one has sold such drugs at wholesale or retail to an unauthorized person shall be prima facie evidence of illegality.

[57-1737, added 1979, ch. 131, sec. 3, p. 424.]

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

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

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

[54-1737A, added 2021, ch. 54, sec. 27, p. 180.]

54-1738. PROOF THAT A DRUG IS A PRESCRIPTION DRUG OR LEGEND DRUG. The following shall constitute prima facie evidence in any criminal or civil proceeding in this state that a drug is a prescription drug or legend drug:

(1) In the case of a drug for which a new drug application was submitted to the United States food and drug administration, the affidavit of an officer having legal custody of the official records of the United States food and drug administration stating that such records show that the new drug application was approved, setting forth the date of approval, and further stating that the records show that proposed labeling for the drug which includes the legend "Caution: Federal law prohibits dispensing without a prescription" was approved. The affidavit shall be accompanied by a certificate that such officer has the custody.

(2) In the case of a drug for which the United States food and drug administration does not require an approved new drug application as a condition for marketing the drug, the affidavit of an officer having legal custody of the official records of the United States food and drug administration stating that such records reflect that the drug meets the criteria of federal law to be regarded as a prescription drug and is required to bear the legend "Caution: Federal law prohibits dispensing without a prescription." The affidavit shall be accompanied by a certificate that such officer has the custody.

(3) In the case of a drug designated a prescription drug by action of the state board of pharmacy, independently of federal law, the affidavit of an officer having legal custody of the records of the state board of pharmacy stating that such records show that the drug has been denominated a prescription drug, to which shall be attached a copy of the official document evidencing such action. The affidavit shall be accompanied by a certificate that such officer has the custody.

(4) This section does not prevent proof that a drug is a prescription or legend drug by any method authorized by any applicable statute, rule of procedure or rule of evidence.

[54-1738, added 1979, ch. 131, sec. 3, p. 424; am. 2018, ch. 37, sec. 16, p. 94.]

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

(2) Before dispensing a prescription for a new medication, or when otherwise deemed necessary or appropriate, a pharmacist shall counsel the pa-

tient or caregiver. Counseling shall include such supplemental written materials as required by law or as are customary in that practice setting. For refills or renewed prescriptions, a pharmacist or a technician shall extend an offer to counsel the patient or caregiver. If such offer is accepted, a pharmacist shall provide such counseling as necessary or appropriate in the professional judgment of the pharmacist. All counseling and offers to counsel shall be face-to-face with the patient or caregiver when possible, but if not possible, then a reasonable effort shall be made to contact the patient or caregiver. Nothing in this section shall require a pharmacist to provide counseling when a patient or caregiver refuses such counseling or when counseling is otherwise impossible. Patient counseling shall not be required for inpatients of a hospital or institutional facility when licensed health care professionals administer the medication.

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

[54-1739, added 2011, ch. 263, sec. 2, p. 708; am. 2020, ch. 14, sec. 12, p. 49; am. 2021, ch. 54, sec. 28, p. 181.]

54-1760. SHORT TITLE. Sections 54-1760 through 54-1765, Idaho Code, shall be known and may be cited as the "Idaho Legend Drug Donation Act."

[54-1760, added 2009, ch. 143, sec. 1, p. 428.]

54-1762. LEGEND DRUG DONATION. (1) Legend drugs may be transferred from a qualified donor to a donation repository for donation to medically indigent patients.

(2) Qualified donors may distribute legend drugs in accordance with the following requirements:

(a) Drugs donated by an individual member of the public must be in the manufacturer's original sealed packaging, including those packaged in single unit doses when the outside packaging is open and the single unit dose packaging is intact; and

(b) Drugs donated by an entity that is a qualified donor must meet either of the following conditions:

(i) The drugs are in the manufacturer's original sealed packaging, including those packaged in single unit doses when the outside packaging is open and the single unit dose packaging is intact; or

(ii) The drugs are opened or unsealed but have remained under the control and storage of the qualified donor.

(3) Donation repositories may accept drugs in accordance with the following specifications:

(a) Only drugs that bear a clear and verifiable lot number and expiration date may be accepted and dispensed. Drugs bearing an expiration date fewer than three (3) months from the date the drug is donated shall not be accepted and shall not be dispensed;

(b) Drugs and other substances provided in schedules II through V of article II, chapter 27, title 37, Idaho Code, shall not be accepted and shall not be dispensed; and

(c) A drug shall not be accepted or dispensed if the person accepting or dispensing the drug has reason to believe that the drug has been adulterated.

(4) Any donation repository dispensing legend drugs shall:

(a) Comply with all applicable federal and state laws related to the storage and distribution of drugs;

(b) Inspect all drugs prior to dispensing to determine that such drugs have not been adulterated;

(c) Dispense drugs pursuant only to a valid prescription; and

(d) Separate donated drugs from the donation repository's normal drug stock. Donated drugs may not be resold.

(5) Nothing in this section shall require any person or entity to donate legend drugs, dispense donated legend drugs, transfer legend drugs for donation, or accept donated legend drugs.

(6) Nothing in this section shall prohibit or restrict the return of unused prescription drugs to the Idaho medicaid program pursuant to rules promulgated by the Idaho department of health and welfare.

[54-1762, added 2019, ch. 82, sec. 4, p. 197.]

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

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

(2) A licensed veterinarian or a veterinary medical facility may accept and reissue drugs donated pursuant to this section and from qualified donors listed in section 54-1704, Idaho Code, if:

(a) The drug is not expired;

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

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

(d) The drug is not a compounded drug.

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

(4) A licensed veterinarian or a veterinary medical facility may, however, reissue the donated drug, without charge, for proper administration to an animal by:

(a) Another client of the veterinarian or facility who appears to be financially unable to pay for the drug;

(b) A nonprofit animal shelter; or

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

[54-1762A, added 2019, ch. 25, sec. 14, p. 50; am. 2021, ch. 54, sec. 37, p. 182; am. 2022, ch. 45, sec. 7, p. 131; am. 2024, ch. 69, sec. 21, p. 354.]

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

[54-1764, added 2009, ch. 143, sec. 5, p. 430; am. 2021, ch. 54, sec. 38, p. 182.]

54-1769. COMMUNICATION REGARDING BIOLOGICAL PRODUCTS. [EFFECTIVE UNTIL JULY 1, 2026] (1) A pharmacist who dispenses a biological product according to board rule shall communicate to the prescriber the name and manufacturer of the drug within five (5) business days following the dispensing of the biological product. Communication shall occur via an entry in an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefit management system or a pharmacy record that can be accessed electronically by the prescriber. Entry into an electronic records system as described in this subsection shall be considered notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission or other prevailing means, provided that the communication shall not be required when:

(a) There is no interchangeable biological product approved by the federal food and drug administration for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee has already communicated to the prescriber the specific product to be provided to the patient, including the name and manufacturer of the product, prior to dispensing; and that product is the product that is actually dispensed.

(2) Nothing in this section shall delay the dispensing of a valid prescription for a biological product.

(3) For purposes of this section:

(a) "Biological product" shall have the same meaning as in 42 U.S.C. 262(i).

(b) "Interchangeable biological product" means a biological product that the federal food and drug administration has licensed and determined meets the standards for interchangeability set forth in 42 U.S.C. 262(k)(4) or has been deemed therapeutically equivalent by the federal food and drug administration in the latest edition of or supplement to the publication "Approved Drug Products with Therapeutic Equivalence Evaluations."

[54-1769, added 2016, ch. 197, sec. 1, p. 553.]

54-1771. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

[54-1771, added 2011, ch. 263, sec. 5, p. 709.]