

LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature Second Regular Session - 2022

IN THE SENATE

SENATE BILL NO. 1245

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PHARMACISTS; REPEALING SECTION 54-1704, IDAHO CODE, RELATING TO THE PRACTICE OF PHARMACY; AMENDING SECTION 54-1705, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1723B, IDAHO CODE, TO REMOVE DEFINITIONS AND TO PROVIDE FOR DRUG OUTLETS; AMENDING SECTION 54-1733B, IDAHO CODE, TO REMOVE A DEFINITION; AMENDING SECTION 54-1733D, IDAHO CODE, TO REMOVE A DEFINITION; REPEALING SECTION 54-1761, IDAHO CODE, RELATING TO DEFINITIONS; AMENDING SECTION 54-1762A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-4702, IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1704, Idaho Code, be, and the same is hereby repealed.

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

54-1705. DEFINITIONS. In this chapter:

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

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

(5) "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.

(6) "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.

(7) "Collaborative pharmacy practice" means a pharmacy practice where one (1) or more pharmacists or pharmacies jointly agree to work under a protocol authorized by one (1) or more prescribers to provide patient care and

1 drug therapy management services not otherwise permitted to be performed by
 2 a pharmacist under specified conditions.

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

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

11 (810) "Deliver" or "delivery" means the actual, constructive or at-
 12 tempted transfer of a drug or device from one person to another, whether or
 13 not for a consideration.

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

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

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

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

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

31 (113) "Distribute" means the delivery of a drug other than by adminis-
 32 tering or dispensing.

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

35 (15) "Donation repository" means:

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

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

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

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

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

44 (126) "Drug" means:

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

48 (b) Articles intended for use in the diagnosis, cure, mitigation,
 49 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.

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

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

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

(20) "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.

(215) "Institutional facility" means a facility ~~for which its~~ 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.

(1622) "Internship" means a practical experience program under the supervision of a preceptor.

(1723) "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.

(1824) "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.

(1925) "Limited service outlet" means a resident or nonresident pharmacy, facility or business entity subject to registration by the board, pursuant to section 54-1729, Idaho Code, and has employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices as may be further defined by board rule but is not a community pharmacy, institutional facility, manufacturer, wholesaler, central drug outlet or mail service pharmacy.

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

(217) "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.

(228) "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.

(239) "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.

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

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

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

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

(34) "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.

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

(36) "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.

(37) "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.

(2438) "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.

(2539) "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.

(2640) "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.

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

(2742) "Party state" means any pharmacy licensing agency of a state that has entered into a mutual recognition agreement with the board.

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

(2844) "Person in charge" or "PIC" means a person whose qualifications, responsibilities, and reporting requirements are defined in rule.

(2945) "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.

(3046) "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.

(3147) "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.

(3248) "Pharmacy" means any drug outlet, facility, department, or other place where prescription drug orders are filled or compounded and prescriptions are sold, dispensed, offered, or displayed for sale, ~~which 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.

(3349) "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.

(50) "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.

(3451) "Preceptor" means a pharmacist or other health professional licensed and in good standing who supervises the internship training of a registered pharmacist intern.

(352) "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.

(3653) "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.

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

(3755) "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.

(3856) "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.

(3957) "Prescription drug order" means a valid order of a prescriber for a drug or device for an ultimate user of the drug or device.

(4058) "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.

(59) "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.

(4160) "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.

(61) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or

1 files, computerized records or other written indicia, documents or objects
2 that are used in any way in connection with the purchase, sale or handling of
3 any drug or device.

4 (462) "Repackage" means repackaging or otherwise changing the con-
5 tainer, wrapper, or labeling to further the distribution of a prescription
6 drug, excluding such actions when completed by the pharmacist responsible
7 for dispensing product to the patient.

8 (463) "Reverse distributor" means a drug outlet that receives nonsal-
9 able prescription drugs from persons or their agents, who may lawfully pos-
10 sess prescription drugs without being issued a valid prescription drug or-
11 der, and that processes for credit or disposes of such prescription drugs.

12 (464) "Sale" means every sale and includes:

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

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

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

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

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

19 (465) "Technician" means an individual authorized by registration with
20 the board to perform pharmacy support services under the direction of a phar-
21 macist.

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

25 (467) "USP" means United States pharmacopoeia.

26 (68) "Veterinary drug outlet" means a prescriber drug outlet that dis-
27 penses drugs or devices intended for animal patients.

28 (4769) "Wholesale distribution" means distribution of prescription
29 drugs to persons other than a consumer or patient, but does not include:

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

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

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

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

42 (4870) "Wholesaler" means a person, who, in the usual course of busi-
43 ness, lawfully distributes drugs or devices in or into Idaho to persons other
44 than the ultimate user.

45 SECTION 3. That Section 54-1723B, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 54-1723B. MULTISTATE PRACTICE OF PHARMACY. Notwithstanding any pro-
48 vision of law to the contrary:

49 (1) ~~As used in this section:~~

1 ~~(a) "License" means a license, registration, or other credential for~~
2 ~~the practice of pharmacy issued by the pharmacy licensing agency of a~~
3 ~~state.~~
4 ~~(b) "Multistate licensee" means a multistate pharmacist, multistate~~
5 ~~pharmacist intern, or multistate technician.~~
6 ~~(c) "Multistate pharmacist" means a nonresident pharmacist, licensed~~
7 ~~by a party state, who is not otherwise licensed by the board.~~
8 ~~(d) "Multistate pharmacist intern" means a nonresident pharmacist in-~~
9 ~~tern, registered by a party state, who is not otherwise licensed by the~~
10 ~~board.~~
11 ~~(e) "Multistate practice of pharmacy" means the practice of pharmacy in~~
12 ~~or into Idaho, for a patient located in Idaho, by a multistate licensee,~~
13 ~~pursuant to the requirements of this section and the terms of a mutual~~
14 ~~recognition agreement.~~
15 ~~(f) "Multistate technician" means a nonresident technician, licensed~~
16 ~~by a party state, who is not otherwise registered by the board.~~
17 ~~(g) "Mutual recognition agreement" means a written agreement entered~~
18 ~~into between the board and a party state allowing for the multistate~~
19 ~~practice of pharmacy, subject to the requirements of this section and~~
20 ~~any other reasonable and supplemental contract terms negotiated by the~~
21 ~~board and the party state.~~
22 ~~(h) "Party state" means any pharmacy licensing agency of a state that~~
23 ~~has entered a mutual recognition agreement with the board.~~
24 ~~(i) "Primary state of residence" means the multistate licensee's de-~~
25 ~~clared primary state of residence, as evidenced by a valid state or fed-~~
26 ~~eral identification card with a home address or another form of identi-~~
27 ~~fication as accepted by the board.~~
28 ~~(j) "State" means a state, a territory or possession of the United~~
29 ~~States, or the District of Columbia.~~
30 ~~(2) The board may enter into mutual recognition agreements with one (1)~~
31 ~~or more party states provided that each party state:~~
32 ~~(a) Has substantially similar requirements for drug outlet registra-~~
33 ~~tion as required in section 54-1730, Idaho Code, pharmacist licensure,~~
34 ~~as required in section 54-1722, Idaho Code, or pharmacist intern and~~
35 ~~technician registration, as required by board rule, or both;~~
36 ~~(b) Requires a fingerprint-based criminal history check prior to li-~~
37 ~~censure that is substantially similar to the requirement in section~~
38 ~~54-1718, Idaho Code; and~~
39 ~~(c) Grants the same multistate practice privileges to Idaho drug out-~~
40 ~~lets, pharmacists, pharmacist interns, or technicians as Idaho grants~~
41 ~~to the party state's drug outlets, pharmacists, pharmacist interns, or~~
42 ~~technicians under like circumstances and conditions.~~
43 ~~(32) A drug outlet, pharmacist, pharmacist intern, or technician li-~~
44 ~~cense issued by a party state will be recognized by the board as permitting~~
45 ~~the multistate practice of pharmacy in or into Idaho without a license issued~~
46 ~~by the board provided the following conditions are met:~~
47 ~~(a) The party state is the primary state of residence for the multistate~~
48 ~~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.

(43) 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.

(54) 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.

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

SECTION 4. That Section 54-1733B, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(3) Any person who prescribes, dispenses, or administers an opioid antagonist pursuant to subsection (1) or (2) of this section shall not be li-

1 able in a civil or administrative action or subject to criminal prosecution
2 for such acts.

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

6 SECTION 5. That Section 54-1733D, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 54-1733D. EPINEPHRINE AUTO-INJECTORS -- PRESCRIPTION AND ADMINIS-
9 TRATION. (1) Notwithstanding any other provision of law, any prescriber or
10 pharmacist acting in good faith and exercising reasonable care may prescribe
11 an epinephrine auto-injector to any person or entity.

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

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

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

24 SECTION 6. That Section [54-1761](#), Idaho Code, be, and the same is hereby
25 repealed.

26 SECTION 7. That Section 54-1762A, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 54-1762A. DRUG DONATION FOR ANIMALS. Notwithstanding any other pro-
29 vision of law:

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

35 (2) A licensed veterinarian or a veterinary medical facility may accept
36 and reissue drugs donated pursuant to this section and from qualified donors
37 listed in section 54-1761(4)05, Idaho Code, if:

- 38 (a) The drug is not expired;
39 (b) There is no reason to believe the drug has been adulterated;
40 (c) The drug is not a controlled substance; and
41 (d) The drug is not a compounded drug.

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

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

- 1 (a) Another client of the veterinarian or facility who appears to be fi-
- 2 nancially unable to pay for the drug;
- 3 (b) A nonprofit animal shelter; or
- 4 (c) A pound, as that term is defined in section 25-3502, Idaho Code.

5 SECTION 8. That Section 54-4702, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 54-4702. DEFINITIONS. As used in this chapter:

8 (1) "Acupuncture" means that theory of health care developed from tra-
9 ditional and modern Oriental medical philosophies that employs diagnosis
10 and treatment of conditions of the human body based upon stimulation of spe-
11 cific acupuncture points on meridians of the human body for the promotion,
12 maintenance, and restoration of health and for the prevention of disease.
13 Therapies within the scope of acupuncture include manual, mechanical, ther-
14 mal, electrical and electromagnetic treatment of such specific indicated
15 points. Adjunctive therapies included in, but not exclusive to, acupuncture
16 include herbal and nutritional treatments, therapeutic exercise and other
17 therapies based on traditional and modern Oriental medical theory.

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

19 (3) "NCCAOM" means "National Certification Commission for Acupuncture
20 and Oriental Medicine."

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

- 26 (a) Surgery; or
- 27 (b) Prescribing, dispensing or administering any prescription drug or
- 28 legend drug as defined in section 54-1705~~(38)~~, Idaho Code.

29 SECTION 9. That Section 37-2726, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled sub-
32 stances and opioid antagonists as defined in section 54-1733~~B05~~, Idaho Code,
33 dispensed for humans shall be filed with the division electronically in a
34 format established by the division. The division may require the filing of
35 other prescriptions by rule. The division shall establish the information
36 to be submitted pursuant to the purposes of this section and the purposes set
37 forth in section 37-2730A, Idaho Code.

38 (2) The division shall create, operate and maintain a controlled
39 substances prescriptions database containing the information submitted
40 pursuant to subsection (1) of this section to be used for the purposes
41 and subject to the terms, conditions and immunities described in section
42 37-2730A, Idaho Code. The division shall retain the information submitted
43 pursuant to subsection (1) of this section for a period of five (5) years from
44 the date the controlled substance was dispensed. The database information
45 must be made available only to the following:

1 (a) Authorized individuals employed by the division, Idaho's boards,
2 or other states' licensing entities charged with the licensing and dis-
3 cipline of practitioners;

4 (b) Peace officers employed by federal, state and local law enforcement
5 agencies engaged as a specified duty of their employment in enforcing
6 law regulating controlled substances;

7 (c) Authorized individuals under the direction of the department of
8 health and welfare for the purpose of monitoring and enforcing that
9 department's responsibilities under the public health, medicare and
10 medicaid laws;

11 (d) A practitioner, licensed in Idaho or another state, having author-
12 ity to prescribe controlled substances, or a delegate under the prac-
13 titioner's supervision, to the extent the information relates specifi-
14 cally to a current patient of the practitioner to whom the practitioner
15 is prescribing or considering prescribing any controlled substance;

16 (e) A pharmacist, licensed in Idaho or another state, having author-
17 ity to dispense controlled substances, or a delegate under the pharma-
18 cist's supervision, to the extent the information relates specifically
19 to a current patient to whom that pharmacist is dispensing or consid-
20 ering dispensing any controlled substance, or providing pharmaceutical
21 care as defined in the Idaho pharmacy act;

22 (f) An individual who is the recipient of a dispensed controlled sub-
23 stance entered into the database may access records that pertain to that
24 individual, upon the production of positive identification, or that in-
25 dividual's designee upon production of a notarized release of informa-
26 tion by that individual;

27 (g) Upon a lawful order issued by the presiding judge in a court of com-
28 petent jurisdiction for the release of prescription monitoring program
29 records of a named individual;

30 (h) Prosecuting attorneys, deputy prosecuting attorneys and special
31 prosecutors of a county or city and special assistant attorneys general
32 from the office of the attorney general engaged in enforcing law regu-
33 lating controlled substances; and

34 (i) A medical examiner or coroner who is an officer of or employed by a
35 state or local government, for determining a cause of death or for per-
36 forming other duties authorized by law.

37 (3) The division shall require pharmacists and prescribers, except
38 veterinarians, to register with the division to obtain online access to the
39 controlled substances prescriptions database.

40 (4) The division must maintain records on the information disclosed
41 from the database, including:

42 (a) The identification of each individual who requests or receives in-
43 formation from the database and who that individual represents;

44 (b) The information provided to each such individual; and

45 (c) The date and time the information is requested or provided.

46 (5) The division shall ensure that only authorized individuals have ac-
47 cess to the database.

48 (6) Any person who knowingly misrepresents to the division that he is
49 a person entitled under subsection (2) of this section to receive informa-
50 tion from the controlled substances prescriptions database under the con-

1 ditions therein provided, and who receives information from the controlled
2 substances prescriptions database resulting from that misrepresentation,
3 shall be guilty of a misdemeanor, punishable by imprisonment in a county jail
4 not to exceed six (6) months, or by a fine not to exceed two thousand dollars
5 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
6 in lieu of, any other civil or administrative penalty or sanction authorized
7 by law.

8 (7) Any person in possession, whether lawfully or unlawfully, of infor-
9 mation from the controlled substances prescriptions database that identi-
10 fies an individual patient and who knowingly discloses such information to a
11 person not authorized to receive or use such information under any state or
12 federal law or rule or regulation, or the lawful order of a court of competent
13 jurisdiction, or without written authorization of the individual patient
14 shall be guilty of a misdemeanor, punishable by imprisonment in a county jail
15 not to exceed six (6) months, or by a fine not to exceed two thousand dollars
16 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
17 in lieu of, any other civil or administrative penalty or sanction authorized
18 by law. The provisions of this subsection shall not apply to disclosure of
19 individual patient information by the patient himself. The provisions of
20 this subsection shall not apply to disclosure of information by a prosecut-
21 ing attorney, deputy prosecuting attorney or special prosecutor of a county
22 or city or by a special assistant attorney general from the office of the at-
23 torney general in the course of a criminal proceeding, whether preconviction
24 or postconviction.

25 (8) Any person with access to the division's online prescription mon-
26 itoring program pursuant to a division-issued user account, login name and
27 password who intentionally shares or recklessly fails to safeguard his user
28 account, login name and password, resulting in another person not authorized
29 to receive or use such information under the provisions of any state or fed-
30 eral law, rule or regulation obtaining information from the controlled sub-
31 stances prescriptions database, shall be guilty of a misdemeanor, punish-
32 able by imprisonment in a county jail not to exceed six (6) months or by a fine
33 not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal
34 penalty is in addition to, and not in lieu of, any other civil or administra-
35 tive penalty or sanction authorized by law.

36 (9) The division may, at its discretion, block access to certain con-
37 trolled substances prescriptions database data if the division has reason to
38 believe that access to the data is or may be used illegally.

39 (10) All costs associated with recording and submitting data as re-
40 quired in this section are assumed by the dispensing practitioner recording
41 and submitting the data.

42 (11) For purposes of this section, "delegate" means a nurse, medical or
43 office assistant, current student of a health profession if a licensed prac-
44 titioner or registered graduate of such profession who may access the data-
45 base, or a registered pharmacy technician who is designated by a supervis-
46 ing practitioner or pharmacist to access the database according to the pro-
47 visions of this section and who must register with the division for such ac-
48 cess.

1 SECTION 10. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2022.