

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 351

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PHARMACY; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE DEF-  
2 INITIONS; AMENDING SECTION 54-1718, IDAHO CODE, TO REVISE PROVISIONS  
3 REGARDING LICENSURE AND DISCIPLINE; AMENDING SECTION 54-1720, IDAHO  
4 CODE, TO REVISE PROVISIONS REGARDING OTHER DUTIES, POWERS AND AUTHORITY  
5 OF THE BOARD OF PHARMACY AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
6 SECTION 54-1721, IDAHO CODE, TO REVISE PROVISIONS REGARDING UNLAWFUL  
7 PRACTICE OF PHARMACY; AMENDING SECTION 54-1722, IDAHO CODE, TO REVISE  
8 PROVISIONS REGARDING EXAMINATIONS AND INTERNSHIP AND OTHER TRAINING  
9 PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1723,  
10 IDAHO CODE, TO REVISE PROVISIONS REGARDING RECIPROCAL LICENSURE AND TO  
11 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1723A, IDAHO CODE, TO  
12 REVISE PROVISIONS REGARDING REGISTRATION; AMENDING SECTION 54-1724,  
13 IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSURE RENEWAL; AMENDING  
14 SECTION 54-1725, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTIN-  
15 UING PHARMACY EDUCATION; AMENDING SECTION 54-1728, IDAHO CODE, TO  
16 CLARIFY LANGUAGE REGARDING A CERTAIN FINE; AMENDING SECTION 54-1729,  
17 IDAHO CODE, TO REVISE PROVISIONS REGARDING REGISTRATION AND LICEN-  
18 SURE OF FACILITIES; AMENDING SECTION 54-1730, IDAHO CODE, TO REVISE  
19 PROVISIONS REGARDING DRUG OUTLET APPLICATION PROCEDURES; AMENDING  
20 SECTION 54-1733, IDAHO CODE, TO REVISE PROVISIONS REGARDING VALIDITY  
21 OF PRESCRIPTION DRUG ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMEND-  
22 ING SECTION 54-1733A, IDAHO CODE, TO PROVIDE THAT A DIGITAL IMAGE OF A  
23 PRESCRIPTION DRUG ORDER MAY BE USED FOR TRANSMITTAL TO A PHARMACY AND  
24 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1734, IDAHO CODE,  
25 TO REVISE PROVISIONS REGARDING POSSESSION OF LEGEND DRUGS; AMENDING  
26 SECTION 54-1738, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROOF THAT  
27 A DRUG IS A PRESCRIPTION DRUG OR LEGEND DRUG AND TO MAKE TECHNICAL COR-  
28 RECTIONS; AMENDING SECTION 54-1754, IDAHO CODE, TO REVISE PROVISIONS  
29 REGARDING RESTRICTIONS ON TRANSACTIONS; AMENDING SECTION 37-3201,  
30 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION  
31 54-1761, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING  
32 SECTION 54-4702, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND  
33 DECLARING AN EMERGENCY.  
34

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

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

38 54-1705. DEFINITIONS. In this chapter:

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

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

4 (3) ~~"Central pharmacist" means a pharmacist performing centralized~~  
5 ~~pharmacy services.~~

6 ~~(4) "Centralized pharmacy services" means the processing by a central~~  
7 ~~drug outlet or central pharmacist of a request from another pharmacy to fill,~~  
8 ~~refill, or dispense a prescription drug order, perform processing functions~~  
9 ~~or provide cognitive or pharmaceutical care services. Each function may be~~  
10 ~~performed by the same or different persons and at the same or different loca-~~  
11 ~~tions.~~

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

16 (64) "Counseling" or "counsel" means the effective communication by  
17 the pharmacist of information, as set out in this chapter, to the patient or  
18 caregiver, in order to improve therapeutic outcomes by maximizing proper  
19 use of prescription drugs and devices. Specific areas of counseling shall  
20 include, but are not limited to:

21 (a) Name and strength and description of the drug;

22 (b) Route of administration, dosage, dosage form, continuity of ther-  
23 apy and refill information;

24 (c) Special directions and precautions for preparation, administra-  
25 tion, storage and use by the patient as deemed necessary by the pharma-  
26 cist;

27 (d) Side effects or adverse effects and interactions and therapeutic  
28 contraindications that may be encountered, including their avoidance,  
29 which may interfere with the proper use of the drug or device as was in-  
30 tended by the prescriber, and the action required if they occur;

31 (e) Techniques for self-monitoring drug therapy; and

32 (f) Action to be taken in the event of a missed dose.

33 (75) "Deliver" or "delivery" means the actual, constructive or at-  
34 tempted transfer of a drug or device from one ~~(1)~~ person to another, whether  
35 or not for a consideration.

36 (86) "Device" means an instrument, apparatus, implement, machine, con-  
37 trivance, implant, in vitro reagent or other similar related article includ-  
38 ing any component part or accessory which is:

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

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

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

49 (97) "Dispense" or "dispensing" means the preparation and delivery of  
50 a drug pursuant to a lawful prescription drug order of a practitioner in a

1 suitable container appropriately labeled for subsequent administration to  
2 or use by a patient or other individual entitled to receive the prescription.

3 ~~(108)~~ "Distribute" means the delivery of a drug other than by adminis-  
4 tering or dispensing.

5 ~~(119)~~ "Drug" means:

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

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

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

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

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

20 ~~(130)~~ "Drug outlets" means all a resident or nonresident pharmacies,  
21 business entities and pharmacy, business entity or other facilities  
22 facility where employees or personnel are engaged in the practice of phar-  
23 macy, in the provision of pharmaceutical care, or in the dispensing, deliv-  
24 ering, distributing or manufacturing of drugs or devices in or into Idaho.

25 ~~(14)~~ "Extern" means a bona fide student enrolled in an approved school  
26 or college of pharmacy who has not received his first professional degree in  
27 pharmacy.

28 ~~(15)~~ "Externship" means a structured practical experience program in  
29 pharmacy administered by a school or college of pharmacy

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

35 ~~(162)~~ "Institutional facility" means a facility for which its primary  
36 purpose is to provide a physical environment for patients to obtain health  
37 care services and in which patients spend a majority of their time, as may be  
38 further defined by board rules.

39 ~~(17)~~ "Intern" means any person who has completed a course of study at  
40 an approved school or college of pharmacy, received the first professional  
41 degree in pharmacy and is registered with the board as a pharmacist intern.  
42 Interns must register with the board prior to commencement of an internship  
43 program.

44 ~~(183)~~ "Internship" means a ~~postgraduate~~ practical experience program  
45 under the supervision of a preceptor.

46 ~~(194)~~ "Investigational or new drug" means any drug which is limited by  
47 state or federal law to use under professional supervision of a practitioner  
48 authorized by law to prescribe or administer such drug.

49 ~~(2015)~~ "Labeling" means the process of preparing and affixing of a la-  
50 bel to any drug container, exclusive however of the labeling by a manufac-

1 turer, packer or distributor of a nonprescription drug or commercially pack-  
 2 aged legend drug or device. Any such label shall include all information re-  
 3 quired by federal and state law.

4 (216) "Limited service outlet" means a resident or nonresident  
 5 pharmacy, facility or business entity that is subject to registration by the  
 6 board, pursuant to section 54-1729, Idaho Code, and has employees or person-  
 7 nel engaged in the practice of pharmacy, in the provision of pharmaceutical  
 8 care, or in the dispensing, delivering, distributing or manufacturing of  
 9 drugs or devices as may be further defined by board rule but is not a retail  
 10 pharmacy, institutional facility, manufacturer, wholesaler, ~~veterinary~~  
 11 ~~drug outlet,~~ nonresident central drug outlet or mail service pharmacy.

12 (2217) "Mail service pharmacy" means a nonresident pharmacy that ships,  
 13 mails or delivers by any lawful means a dispensed legend drug to residents  
 14 in this state pursuant to a legally issued prescription drug order and en-  
 15 sures the provision of corresponding related pharmaceutical care services  
 16 required by law.

17 (2318) "Manufacture" means the production, preparation, propagation,  
 18 compounding, conversion or processing of a device or a drug, either directly  
 19 or indirectly by extraction from substances of natural origin or independ-  
 20 ently by means of chemical synthesis or by a combination of extraction and  
 21 chemical synthesis, and includes any packaging or repackaging of the sub-  
 22 stance or labeling or relabeling of its container, except that this term does  
 23 not include the preparation or compounding of a drug by an individual for his  
 24 own use or the preparation, compounding, packaging or labeling of a drug:

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

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

31 (2419) "Manufacturer" means a person who by compounding, cultivating,  
 32 harvesting, mixing or other process, produces or prepares legend drugs,  
 33 and includes persons who prepare such drugs in dosage forms by mixing, com-  
 34 compounding, encapsulating, entableting, or other process, or who packages or  
 35 repackages such drugs, but does not include pharmacists or practitioners in  
 36 the practice of their profession.

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

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

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

1 (273) "Outsourcing facility" means a pharmacy or facility that is reg-  
2 istered by the United States food and drug administration pursuant to 21  
3 U.S.C. ~~section~~ 353b and either registered or endorsed by the board.

4 (284) "Person" means an individual, corporation, partnership, associa-  
5 tion or any other legal entity.

6 (25) "Person in charge" or "PIC" means a pharmacist or, in the case of  
7 a prescriber drug outlet, a prescriber whose qualifications, responsibili-  
8 ties and reporting requirements are defined in rule.

9 (296) "Pharmaceutical care" means drug therapy and other pharmaceuti-  
10 cal patient care services intended to achieve outcomes related to the cure or  
11 prevention of a disease, elimination or reduction of a patient's symptoms,  
12 or arresting or slowing of a disease process as defined in the rules of the  
13 board.

14 (3027) "Pharmacist" means an individual licensed by this state to en-  
15 gage in the practice of pharmacy or a pharmacist registered by this state who  
16 is located in another state, territory or the District of Columbia and is en-  
17 gaged in the practice of pharmacy into Idaho, unless exempted.

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

22 ~~(31) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifica-~~  
23 ~~tions, responsibilities and reporting requirements are defined in rule.~~

24 (329) "Pharmacy" means any drug outlet, facility, department or other  
25 place where prescription drug orders are filled or compounded and prescrip-  
26 tions are sold, dispensed, offered or displayed for sale, which has, as its  
27 principal purpose, the dispensing of drug and health supplies intended for  
28 the general health, welfare and safety of the public.

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

32 (31) "Preceptor" means a pharmacist or other health professional li-  
33 icensed and in good standing who supervises the internship training of a  
34 registered pharmacist intern.

35 (342) "Precursor" means a substance, other than a legend drug, which is  
36 an immediate chemical intermediate that can be processed or synthesized into  
37 a legend drug, and is used or produced primarily for use in the manufacture  
38 of a legend drug by persons other than persons licensed to manufacture such  
39 legend drugs by the Idaho board of pharmacy, registered by the state board  
40 of health and welfare, or licensed to practice pharmacy by the Idaho board of  
41 pharmacy.

42 ~~(35) "Preceptor" means a pharmacist licensed and in good standing who~~  
43 ~~supervises the internship or externship training of a registered student~~  
44 ~~pharmacist. The preceptor shall be actively engaged in the practice of phar-~~  
45 ~~macy on a full-time employment basis.~~

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

49 (34) "Prescriber drug outlet" means a drug outlet in which prescription  
50 drugs or devices are dispensed directly to patients under the supervision of

1 a prescriber, except where delivery is accomplished only through on-site ad-  
 2 ministration or the provision of drug samples, patient assistance program  
 3 drugs, or investigational drugs as permitted in chapter 93, title 39, Idaho  
 4 Code.

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

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

10 (b) "Rx Only"; or

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

13 or a drug which is required by any applicable federal or state law or regula-  
 14 tion to be dispensed on prescription drug order only or is restricted to use  
 15 by practitioners only.

16 (386) "Prescription drug order" means a valid order of a ~~practitioner~~  
 17 prescriber for a drug or device for an ultimate user of the drug or device.

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

20 (a) Evaluation of the prescription drug order for:

21 (i) Known allergies;

22 (ii) Rational therapy contraindications;

23 (iii) Reasonable dose and route of administration; and

24 (iv) Reasonable directions for use.

25 (b) Evaluation of the prescription drug order for duplication of ther-  
 26 apy.

27 (c) Evaluation of the prescription drug order for interactions:

28 (i) Drug-drug;

29 (ii) Drug-food; and

30 (iii) Drug-disease.

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

32 (i) Over\_ or under\_utilization; and

33 (ii) Abuse/misuse.

34 (4038) "Record" means all papers, letters, memoranda, notes, prescrip-  
 35 tions, drug orders, invoices, statements, patient medication charts or  
 36 files, computerized records or other written indicia, documents or objects  
 37 ~~which~~ that are used in any way in connection with the purchase, sale or han-  
 38 dling of any drug or device.

39 (4139) "Sale" means every sale and includes:

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

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

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

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

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

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

49 (41) "Veterinary drug outlet" means a prescriber drug outlet that dis-  
 50 pensates drugs or devices intended for animal patients.

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

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

6 54-1718. LICENSURE AND DISCIPLINE. (1) The board of pharmacy shall be  
 7 responsible for the control and regulation of the practice of pharmacy in  
 8 this state including, but not limited to, the following:

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

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

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

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

21 (e) The regulation of the training, qualifications and employment of  
 22 ~~pharmacy~~ pharmacist interns.

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

27 (a) Original applicants for licensure or registration, unless exempted  
 28 by board rule; and

29 (b) Applicants for reinstatement of a license or registration ~~that has~~  
 30 ~~been suspended or revoked; and~~

31 ~~(c) Applicants for reinstatement of a license or registration that has~~  
 32 ~~lapsed for a period of time that is more than one (1) year.~~

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

36 SECTION 3. That Section 54-1720, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy  
 39 shall have such other duties, powers, and authority as may be necessary to  
 40 the enforcement of this chapter and to the enforcement of board rules made  
 41 pursuant thereto, which shall include, but are not limited to, the follow-  
 42 ing:

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

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

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

7 ~~(4) On or before the 60th day after the last day of each state fiscal~~  
 8 ~~year, the board shall submit to the governor a report summarizing its pro-~~  
 9 ~~ceedings and activities during that fiscal year, together with a report of~~  
 10 ~~all moneys received and disbursed by the board. Such reports or comprehen-~~  
 11 ~~sive summaries or abstracts thereof, as determined by the board shall be made~~  
 12 ~~available to the public.~~

13 ~~(5) (a) The board shall determine by rule the fees to be collected for:~~

14 ~~(i) Examinations and reexaminations, which fee shall not exceed~~  
 15 ~~two hundred fifty dollars (\$250);~~

16 ~~(ii) The issuance of licenses, which fee shall not exceed two hun-~~  
 17 ~~dred fifty dollars (\$250);~~

18 ~~(iii) Tthe issuance and renewal of certificates of registration,~~  
 19 ~~which fee shall not exceed one hundred dollars (\$100), except the~~  
 20 ~~fee for nonresident registrations shall not exceed five hundred~~  
 21 ~~dollars (\$500) for initial registration and two hundred fifty dol-~~  
 22 ~~lars (\$250) thereafter for annual renewals licenses and registra-~~  
 23 ~~tions.~~

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

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

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

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

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

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



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

4 (~~76~~) The board shall assign to each drug outlet under its jurisdiction a  
5 uniform state number.

6 (~~87~~) The board or its authorized representatives shall also have power  
7 to investigate and gather evidence concerning alleged violations of the pro-  
8 visions of this chapter or of the rules of the board.

9 (~~98~~) (a) Notwithstanding anything in this chapter to the contrary,  
10 whenever a duly authorized representative of the board finds or has  
11 probable cause to believe that any drug, or device is adulterated or  
12 misbranded within the meaning of the Idaho food, drug and cosmetic act,  
13 he shall affix to such drug or device a tag or other appropriate marking  
14 giving notice that such article is or is suspected of being adulterated  
15 or misbranded, has been detained or embargoed and warning all persons  
16 not to remove or dispose of such article by sale or otherwise until  
17 provision for removal or disposal is given by the board, its agent or  
18 the court. No person shall remove or dispose of such embargoed drug or  
19 device by sale or otherwise without the permission of the board or its  
20 agent or, after summary proceedings have been instituted, without per-  
21 mission from the court.

22 (b) When a drug or device detained or embargoed under paragraph (a)  
23 of this subsection (~~9~~) has been declared by such representative to be  
24 adulterated or misbranded, the board shall, as soon as practical there-  
25 after, petition the judge of the district court in whose jurisdiction  
26 the article is detained or embargoed for an order for condemnation of  
27 such article. If the judge determines that the drug or device so de-  
28 tained or embargoed is not adulterated or misbranded, the board shall  
29 direct the immediate removal of the tag or other marking.

30 (c) If the court finds the detained or embargoed drug or device is adul-  
31 terated or misbranded, such drug or device, after entry of the decree,  
32 shall be destroyed at the expense of the owner under the supervision of  
33 a board representative and all court costs and fees, storage and other  
34 proper expense shall be borne by the owner of such drug or device. When  
35 the adulteration or misbranding can be corrected by proper labeling or  
36 processing of the drug or device, the court, after entry of the decree  
37 and after such costs, fees and expenses have been paid and a good and  
38 sufficient bond has been posted, may direct that such drug or device be  
39 delivered to the owner thereof for such labeling or processing under  
40 the supervision of a board representative. Expense of such supervision  
41 shall be paid by the owner. Such bond shall be returned to the owner of  
42 the drug or device on representation to the court by the board that the  
43 drug or device is no longer in violation of the embargo and the expense  
44 of supervision has been paid.

45 (d) It is the duty of the attorney general to whom the board reports any  
46 violation of this subsection to cause appropriate proceedings to be in-  
47 stituted in the proper court without delay and to be prosecuted in the  
48 manner required by law. Nothing in this subsection (~~9~~) shall be con-  
49 strued to require the board to report violations whenever the board be-

1 believes the public's interest will be adequately served in the circum-  
2 stances by a suitable written notice or warning.

3 ~~(109)~~ Except as otherwise provided to the contrary, the board shall ex-  
4 ercise all of its duties, powers and authority in accordance with the admin-  
5 istrative procedure act.

6 ~~(110)~~ (a) For the purpose of any proceedings held before the board as  
7 authorized by law, including the refusal, nonrenewal, revocation or  
8 suspension of licenses, registrations or certifications authorized  
9 by this chapter, or the imposition of fines or reprimands on persons  
10 holding such licenses, certifications or registrations, the board may  
11 subpoena witnesses and compel their attendance, and may also at such  
12 time require the production of books, papers, documents or other memo-  
13 randa. In any such proceeding before the board, any member of the board,  
14 or its designee, may administer oaths or affirmations to witnesses so  
15 appearing.

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

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

34 (11) The board may sponsor, participate in or conduct education, re-  
35 search or public service programs or initiatives to carry out the purposes  
36 of this act.

37 SECTION 4. That Section 54-1721, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person or  
40 business entity to engage in the practice of pharmacy including, but not lim-  
41 ited to, pharmaceutical care services in or into Idaho unless licensed or  
42 registered to so practice under the provisions of this chapter, except as  
43 provided herein:

44 (a) Physicians, dentists, veterinarians, osteopaths or other practi-  
45 tioners of the healing arts who are licensed under the laws of this state  
46 may deliver and administer prescription drugs to their patients in the  
47 practice of their respective professions where specifically authorized  
48 to do so by statute of this state; and

1 (b) Nonresident pharmacists practicing who are actively licensed in  
 2 their state of residence may practice pharmacy into Idaho who are if  
 3 employed by or affiliated with and practicing for an Idaho-registered  
 4 nonresident mail service pharmacy drug outlet. Only the person in  
 5 charge of a registered nonresident facility must be licensed or regis-  
 6 tered to practice into Idaho; and

7 (c) A veterinary drug outlet, as defined in section 54-1705, Idaho  
 8 Code, does not need to register with the board if the outlet does not  
 9 dispense for outpatient use any controlled substances listed in chapter  
 10 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuro-  
 11 muscular paralyzing drugs or general anesthesia drugs.

12 (2) Notwithstanding the provisions of subsection (1) of this section  
 13 and any statute or rule to the contrary, persons who hold a valid and current  
 14 license to practice practical or professional nursing in this state pursuant  
 15 to sections 54-1407, 54-1408 and 54-1418, Idaho Code, and who are employed  
 16 by one (1) of the public health districts established under section 39-408,  
 17 Idaho Code, shall be permitted to engage in the labeling and delivery of  
 18 refills of the following prepackaged items when such items have been pre-  
 19 scribed to a patient by a licensed physician, licensed physician's assistant  
 20 or licensed advanced practice nurse:

21 (a) Prenatal vitamins;

22 (b) Contraceptive drugs approved by the United States food and drug ad-  
 23 ministration;

24 (c) Antiviral drugs approved by the United States centers for disease  
 25 control and prevention for treatment of sexually transmitted infec-  
 26 tion; and

27 (d) Drugs approved by the United States centers for disease control and  
 28 prevention for treatment of active and latent tuberculosis.

29 (3) It shall be unlawful for any person, not legally licensed or regis-  
 30 tered as a pharmacist, to take, use or exhibit the title of pharmacist or the  
 31 title of druggist or apothecary, or any other title or description of like  
 32 import.

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

39 SECTION 5. That Section 54-1722, Idaho Code, be, and the same is hereby  
 40 amended to read as follows:

41 54-1722. QUALIFICATIONS FOR LICENSURE BY EXAMINATION. (1) To obtain a  
 42 license to engage in the practice of pharmacy, an applicant for licensure by  
 43 examination shall:

44 (a) Have submitted a written application in the form prescribed by the  
 45 board of pharmacy-;

46 (b) Have attained the age of majority-;

47 (c) Be of good moral character and temperate habits-;

1 (d) Have graduated and received the first professional undergraduate  
2 degree from a school or college of pharmacy ~~which has been~~ approved by  
3 the board of pharmacy-; i

4 (e) Have completed an internship or other program ~~which has been~~ ap-  
5 proved by the board of pharmacy, or demonstrated to the board's satis-  
6 faction experience in the practice of pharmacy ~~which that~~ meets or ex-  
7 ceeds the minimum internship requirements of the board-; i

8 (f) Have successfully passed an examination given by the board of phar-  
9 macy-; i and

10 (g) Paid the fees specified by the board of pharmacy for examination and  
11 issuance of license.

12 (2) Examinations.

13 ~~(a) The examination for licensure required under section~~  
14 ~~54-1722(1)(f), Idaho Code, shall be given by the board at least two (2)~~  
15 ~~times during each fiscal year of the state. The board shall determine~~  
16 ~~the content and subject matter of each examination, the place, time and~~  
17 ~~date of administration of the examination, and those persons who shall~~  
18 ~~have successfully passed the examination.~~

19 ~~(b) The examination shall be prepared to measure the competence of the~~  
20 ~~applicant to engage in the practice of pharmacy. The board may employ~~  
21 ~~and cooperate with any organization or consultant in the preparation~~  
22 ~~and grading of an appropriate examination, but shall retain the sole~~  
23 ~~discretion and responsibility of determining which applicants have~~  
24 ~~successfully passed such an examination.~~

25 (3) Internship and other training programs.

26 ~~(a) All applicants for licensure by examination shall obtain practical~~  
27 ~~experience in the practice of pharmacy concurrent with or after college~~  
28 ~~attendance, or both, under such terms and conditions as the board shall~~  
29 ~~determine.~~

30 ~~(b) The board shall establish standards for internship or any other~~  
31 ~~program necessary to qualify an applicant for the licensure examination~~  
32 ~~and shall also determine the necessary qualifications of any preceptors~~  
33 ~~used in any internship or other program.~~

34 (4) Any applicant who is a graduate of a school or college of pharmacy  
35 located outside the United States, the degree program of which has not been  
36 approved by the board, but who is otherwise qualified to apply for a license  
37 to practice pharmacy in this state, may be considered to have satisfied the  
38 degree requirements of subsection (1) (d) of this section by verification to  
39 the board of his academic record and his graduation and by meeting any other  
40 requirements as the board may establish from time to time. The board may re-  
41 quire that the applicant successfully pass an examination given or approved  
42 by the board to establish proficiency in eEnglish and an equivalency of edu-  
43 cation with qualified graduates of a degree program specified in subsection  
44 (1) (d) of this section as a prerequisite of taking the licensure examination  
45 as provided in subsection (1) (f) of this section.

46 SECTION 6. That Section 54-1723, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

48 54-1723. QUALIFICATIONS FOR LICENSURE BY RECIPROCITY. (1) To obtain a  
49 license as a pharmacist by reciprocity, an applicant for licensure shall:

1 (a) Have submitted a written application in the form prescribed by the  
2 board of pharmacy-; i

3 (b) Have attained the age of majority-; i

4 (c) Have good moral character and temperate habits-; i

5 (d) Have possessed at the time of initial licensure as a pharmacist such  
6 other qualifications necessary to have been eligible for licensure at  
7 that time in this state-; i

8 (e) ~~Have engaged in the practice of pharmacy for a period of at least one~~  
9 ~~(1) year or have met the internship requirements of this state within~~  
10 ~~the one (1) year immediately previous to the date of such application.~~

11 ~~(f)~~ Have presented to the board proof of initial licensure by exami-  
12 nation and proof that such license and any other license or licenses  
13 granted to the applicant by any other state or states is not at the time  
14 of application suspended, revoked, canceled or otherwise restricted in  
15 a manner preventing the applicant from practicing as a pharmacist for  
16 any reason except nonrenewal or the failure to obtain required continu-  
17 ing education credits in any state where the applicant is licensed but  
18 not engaged in the practice of pharmacy-; and

19 ~~(g)~~ Have paid the fees specified by the board of pharmacy for issuance  
20 of a license.

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

25 ~~(3) Temporary reciprocity license.~~

26 ~~(a) In conjunction with an application for a license as a pharmacist by~~  
27 ~~reciprocity, the applicant may be granted a temporary license as a phar-~~  
28 ~~macist upon compliance with the following terms and conditions:~~

29 ~~(i) The applicant has filed a complete application for licensure~~  
30 ~~by reciprocity and paid all fees for such application, which fees~~  
31 ~~shall not be refundable upon grant of a temporary license;~~

32 ~~(ii) The applicant has passed the state jurisprudence examination~~  
33 ~~with a score of not less than seventy-five (75);~~

34 ~~(iii) The applicant submits photocopies of all current licenses to~~  
35 ~~practice pharmacy in any other states or jurisdictions;~~

36 ~~(iv) The applicant provides documentation of any and all actions~~  
37 ~~taken against any of the applicant's licenses to practice pharmacy~~  
38 ~~by any other state or jurisdiction, and any such action does not~~  
39 ~~otherwise render the applicant ineligible for licensure by reci-~~  
40 ~~procity in Idaho;~~

41 ~~(v) The applicant submits evidence that the applicant has law-~~  
42 ~~fully practiced pharmacy in the United States or its territories~~  
43 ~~for the preceding twelve (12) months prior to filing of the appli-~~  
44 ~~cation;~~

45 ~~(vi) The applicant submits evidence that the applicant has com-~~  
46 ~~pleted all continuing education requirements of the applicant's~~  
47 ~~active licenses for the three (3) calendar years preceding the ap-~~  
48 ~~plication; and~~

49 ~~(vii) The applicant executes a sworn statement that all of the~~  
50 ~~documents, evidence and statements of the applicant submitted to~~

1           the board in conjunction with the application for licensure by  
2           reciprocity and the request for temporary licensure are true and  
3           correct, and that the applicant has fully disclosed all infor-  
4           mation required for licensure by reciprocity and for temporary  
5           licensure.

6           ~~(b) Upon completion of the above requirements to the satisfaction~~  
7           ~~of the executive director, the applicant may be granted a temporary~~  
8           ~~license by reciprocity for a period of not more than sixteen (16) con-~~  
9           ~~secutive weeks as follows:~~

10           ~~(i) The temporary license shall not be renewable nor may the ap-~~  
11           ~~plicant reapply for temporary licensure for a period of one (1)~~  
12           ~~year after lapse of a temporary license;~~

13           ~~(ii) The temporary license shall lapse automatically upon the~~  
14           ~~grant or denial of a license by reciprocity upon subsections (1)~~  
15           ~~and (2) of this section;~~

16           ~~(iii) The temporary license shall not include acting as a phar-~~  
17           ~~macist-in-charge or as a preceptor or supervising interns or ex-~~  
18           ~~terns;~~

19           ~~(iv) The temporary license shall be subject to discipline in the~~  
20           ~~same manner as a full license and shall also be subject to imme-~~  
21           ~~diate suspension by the executive director upon reasonable evi-~~  
22           ~~dence that the applicant has not fulfilled the requirements for~~  
23           ~~such temporary license or that the documents, evidence and state-~~  
24           ~~ment of the applicant submitted to the board are not true and cor-~~  
25           ~~rect, or that the applicant's disclosures required by this section~~  
26           ~~are not complete. Suspension of a temporary license by the exec-~~  
27           ~~utive director shall be immediate subject only to reinstatement~~  
28           ~~upon appeal by the applicant to the board at its next scheduled~~  
29           ~~meeting; and~~

30           ~~(v) In the event the temporary license lapses without the con-~~  
31           ~~temporaneous grant of full licensure by reciprocity, or the tem-~~  
32           ~~porary license is suspended by the executive director, then all~~  
33           ~~privileges allowed under the temporary license, including those~~  
34           ~~relating to any controlled substance registration granted under~~  
35           ~~the temporary license, shall also cease.~~

36           SECTION 7. That Section 54-1723A, Idaho Code, be, and the same is hereby  
37           amended to read as follows:

38           54-1723A. REGISTRATION TO ENGAGE IN THE PRACTICE OF PHARMACY INTO  
39           IDAHO. (1) To obtain a registration to practice as a pharmacist into the  
40           state of Idaho, the applicant shall:

41           (a) Be licensed and in good standing in the state from which the appli-  
42           clicant practices pharmacy;

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

44           (c) Pay the fee(s) specified by the board for the issuance of the regis-  
45           tration; and

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

47           (2) A successful applicant for registration under this section shall  
48           be subject to the disciplinary provisions of section 54-1726, Idaho Code,

1 the penalty provisions of section 54-1728, Idaho Code, and the rules of the  
2 board.

3 (3) A successful applicant for registration under this section shall  
4 comply with the board's laws and rules of this state unless compliance would  
5 violate the laws or rules in the state in which the registrant is located,  
6 ~~except as follows:~~

7 ~~(a) A technician shall not exceed the practice limitations for techni-~~  
8 ~~cians in Idaho;~~

9 ~~(b) A pharmacist shall only substitute drug products in accordance with~~  
10 ~~Idaho law;~~

11 ~~(c) A pharmacist shall only select drug products in accordance with~~  
12 ~~Idaho law; and~~

13 ~~(d) A pharmacist shall not exceed the pharmacy staffing ratio, as de-~~  
14 ~~defined in rule.~~

15 (4) Renewal shall be required annually and submitted to the board no  
16 later than the ~~thirtieth last day of June~~ the registrant's birth month. The  
17 board shall specify by rule the procedures to be followed and the fees to be  
18 paid for renewal of registration.

19 SECTION 8. That Section 54-1724, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 54-1724. RENEWAL OF LICENSES. (1) Each pharmacist shall apply for li-  
22 cense renewal annually no later than the ~~thirtieth last day of June~~ the li-  
23 icensee's birth month. The board shall renew the license of each pharmacist  
24 who is qualified to engage in the practice of pharmacy.

25 (2) The board shall specify by rule or regulation the procedures to be  
26 followed and the fees to be paid for renewal of licenses.

27 SECTION 9. That Section 54-1725, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 54-1725. CONTINUING PHARMACY EDUCATION. (1) The legislature makes the  
30 following findings and declarations:

31 (a) Because of the continuous introduction of new therapeutic and diag-  
32 nostic agents and the changing concepts in the delivery of ~~health-care~~  
33 health care services in the practice of pharmacy, it is essential that  
34 a pharmacist undertake a continuing education program in order to main-  
35 tain his professional competency and improve his professional skills;  
36 and

37 (b) To assure the continued competency of the pharmacist and to main-  
38 tain uniform qualifications for registration and licensure in the pro-  
39 fession for the protection of the health and welfare of its citizens,  
40 the legislature of this state deems it in the public interest to adopt a  
41 continuing professional education program.

42 (2) ~~Commencing July 1, 1980, n~~No annual renewal license shall be issued  
43 to a pharmacist until such pharmacist shall have submitted proof to the board  
44 that he has satisfactorily completed an accredited program of continuing  
45 professional education during the previous year to help assure his continued  
46 competence to engage in the practice of pharmacy. The board shall from time  
47 to time determine the amount of continuing education to be required.

1 (3) The board shall adopt rules and regulations necessary to carry out  
2 the stated objectives and purposes and to enforce the provisions of this sec-  
3 tion, which shall include the methods of determining accredited programs,  
4 any fees and such other rules and regulations consistent with this section as  
5 the board shall determine.

6 ~~(4) The board may grant to a pharmacist who meets all of the necessary~~  
7 ~~requirements for renewal of licensure, except the continuing education re-~~  
8 ~~quirements, alternate methods of obtaining continuing education through~~  
9 ~~home-study courses, correspondence courses, audiovisual aids, or other such~~  
10 ~~programs, examination or the like, substantially equivalent in scope and~~  
11 ~~content to the continuing professional education programs regularly sched-~~  
12 ~~uled; provided, however, only those pharmacists shall be eligible for the~~  
13 ~~alternative programs who, upon written application to the board and for good~~  
14 ~~cause shown, demonstrate that they are unable to attend a sufficient number~~  
15 ~~of regularly scheduled continuing professional education programs for li-~~  
16 ~~icensure. This section and all rules and regulations promulgated hereunder~~  
17 ~~shall be uniformly applied by the board.~~

18 SECTION 10. That Section 54-1728, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the ex-  
21 istence of grounds for discipline of any person or business entity holding  
22 a license or registration, seeking a license or registration, or a renewal  
23 license or registration under the provisions of this chapter, the board of  
24 pharmacy may impose one (1) or more of the following penalties:

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

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

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

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

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

35 (f) Imposition of an administrative fine not to exceed two thousand  
36 dollars (\$2,000) for each occurrence providing a basis for discipline  
37 plus costs of prosecution and administrative costs of bringing the ac-  
38 tion including, but not limited to, attorney's fees and costs and costs  
39 of hearing transcripts.

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

43 (3) The board may report any violation by a nonresident licensee or reg-  
44 istrant, or its agent or employee, of the laws and rules of this state, the  
45 state in which it resides or the United States to any appropriate state or  
46 federal regulatory or licensing agency including, but not limited to, the  
47 regulatory agency of the state in which the nonresident licensee or regis-  
48 trant is a resident.



1 (4) The board may elect to not initiate an administrative action under  
2 Idaho law against a nonresident licensee or registrant upon report of a vi-  
3 olation of law or rule of this state if the licensee's or registrant's home  
4 state commences an action for the violation complained of; provided however,  
5 that the board may elect to initiate an administrative action if the home  
6 state action is unreasonably delayed or the home state otherwise fails to  
7 take appropriate action for the reported violation.

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

16 (6) Any person whose license to practice pharmacy in this state has  
17 been suspended, revoked or restricted pursuant to this chapter, or any drug  
18 outlet whose certificate of registration has been suspended, revoked or re-  
19 stricted pursuant to this chapter, whether voluntarily or by action of the  
20 board, shall have the right, at reasonable intervals, to petition the board  
21 for reinstatement of such license. Such petition shall be made in writing  
22 and in the form prescribed by the board. Upon investigation and hearing,  
23 the board may in its discretion grant or deny such petition, or it may modify  
24 its original finding to reflect any circumstances which have changed suffi-  
25 ciently to warrant such modifications.

26 (7) Nothing herein shall be construed as barring criminal prosecutions  
27 for violations of the act where such violations are deemed as criminal of-  
28 fenses in other statutes of this state or of the United States.

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

31 SECTION 11. That Section 54-1729, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or de-  
34 vice outlets doing business in or into Idaho shall:

35 (a) If a nonresident, be licensed or registered and in good standing in  
36 the applicant's state of residence;

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

38 (c) Pay the fee or fees specified by the board for the issuance of the  
39 registration or license; and

40 (d) Have a PIC ~~or director~~ who is licensed or registered by the board,  
41 except manufacturers, wholesalers, ~~veterinary drug outlets and limited~~  
42 ~~service other drug outlets without a pharmacy~~ in accordance with board  
43 rule.

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

46 (a) Retail pharmacy;

47 (b) Institutional facility;

48 (c) Manufacturer;

49 (d) Wholesaler;

- 1 (e) Veterinary Prescriber drug outlet;  
 2 (f) ~~Nonresident~~ Central drug outlet;  
 3 (g) Mail service pharmacy;  
 4 (h) Limited service outlet.

5 (3) The board shall establish by rule under the powers granted to it un-  
 6 der sections 54-1718 and 54-1719, Idaho Code, the criteria ~~which~~ that each  
 7 outlet, ~~that has~~ with employees or personnel engaged in the practice of phar-  
 8 macy, must meet to qualify for registration or licensure in each classifica-  
 9 tion designated in subsection (2) of this section. The board may issue var-  
 10 ious types of certificates with varying restrictions to such outlets desig-  
 11 nated in subsection (2) of this section where the board deems it necessary by  
 12 reason of the type of outlet requesting a certificate.

13 (4) It shall be lawful for ~~an~~ any outlet ~~registered or licensed under~~  
 14 ~~this section~~ facility to sell and distribute nonprescription drugs. Outlets  
 15 engaging in the sale and distribution of such items shall not be deemed to be  
 16 improperly engaged in the practice of pharmacy. No rule will be adopted by  
 17 the board under this chapter ~~which shall~~ that requires the sale of nonpre-  
 18 scription drugs by a pharmacist or under the supervision of a pharmacist or  
 19 otherwise ~~apply~~ applies to or ~~interferes~~ with the sale and distribution of  
 20 such medicines.

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

28 (6) A successful applicant for registration under the provisions of  
 29 this section shall be subject to the disciplinary provisions of section  
 30 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code,  
 31 and the rules of the board.

32 (7) A successful applicant for registration under the provisions of  
 33 this section shall comply with the board's laws and rules of this state un-  
 34 less compliance would violate the laws or rules in the state in which the  
 35 registrant is located, ~~except as follows:~~

- 36 ~~(a) A technician shall not exceed the practice limitations for techni-~~  
 37 ~~cians in Idaho;~~  
 38 ~~(b) A pharmacist shall only substitute drug products in accordance with~~  
 39 ~~the board's laws and rules;~~  
 40 ~~(c) A pharmacist shall only select drug products in accordance with the~~  
 41 ~~board's laws and rules; and~~  
 42 ~~(d) A pharmacy shall not exceed the pharmacy staffing ratio as defined~~  
 43 ~~in rule.~~

44 (8) Renewal shall be required annually and submitted to the board no  
 45 later than ~~June 30~~ December 31. The board shall specify by rule the proce-  
 46 dures to be followed and the fees to be paid for renewal of registration or  
 47 licensure.

48 SECTION 12. That Section 54-1730, Idaho Code, be, and the same is hereby  
 49 amended to read as follows:

1           54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall  
2 specify by rule the registration procedures to be followed including,  
3 but not limited to, specification of forms for use in applying for such  
4 certificates of registration and times, places and fees for filing such  
5 application; ~~provided however, the annual fee for an original or renewal~~  
6 ~~certificate shall not exceed one hundred dollars (\$100), except the fee for~~  
7 ~~nonresident pharmacies or outlets shall not exceed five hundred dollars~~  
8 ~~(\$500) for initial registration and two hundred fifty dollars (\$250) there-~~  
9 ~~after for annual renewals.~~

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

12           (a) Ownership;

13           (b) Location;

14           (c) Identity of pharmacist licensed or registered to practice in the  
15 state, who shall be the pharmacist person in charge of the outlet, where  
16 one ~~(1)~~ is required by this chapter, and such further information as the  
17 board may deem necessary.

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

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

27           SECTION 13. That Section 54-1733, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

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

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

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

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

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

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

48           (e) Writing a prescription for an opioid antagonist pursuant to section  
49 54-1733B, Idaho Code;

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

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

6 (h) Epinephrine auto-injectors in the name of a school pursuant to sec-  
7 tion 33-520A, Idaho Code, or an authorized entity pursuant to section  
8 54-1733C, Idaho Code; and

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

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

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

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

27 (5) The following acts shall be unlawful:

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

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

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

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

38 SECTION 14. That Section 54-1733A, Idaho Code, be, and the same is  
39 hereby amended to read as follows:

40 54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. (1) A valid pre-  
41 scription drug order may be transmitted to a licensed pharmacy by the follow-  
42 ing means:

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

46 (b) Electronically by the prescriber or prescriber's agent in compli-  
47 ance with the uniform electronic transactions act, chapter 50, title  
48 28, Idaho Code;

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

5 (d) Verbally by the prescriber, prescriber's agent, or a licensed prac-  
 6 tical or professional nurse for a patient of an institutional facility  
 7 or for a hospice patient; and

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

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

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

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

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

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

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

27 SECTION 15. That Section 54-1734, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29 54-1734. POSSESSION OF LEGEND DRUGS. ~~(1)~~ The following persons or  
 30 their agents or employees may possess legend drugs for use in the usual and  
 31 lawful course of their business or practice or in the performance of their  
 32 lawful official duties, without a valid prescription drug order:

33 ~~(a)~~1) Pharmacists;

34 ~~(b)~~2) Prescribers;

35 ~~(c)~~3) Researchers who are prohibited from further distribution;

36 ~~(d)~~4) Hospitals and other institutional facilities;

37 ~~(e)~~5) Manufacturers and wholesalers;

38 ~~(f)~~6) Common carriers solely in the usual course of business of trans-  
 39 porting prescription drugs;

40 ~~(g)~~7) Schools or other authorized entities possessing stock supplies  
 41 of epinephrine auto-injectors pursuant to section 33-520A or 54-1733C,  
 42 Idaho Code, upon presenting proof that the authorized entity has at least  
 43 one (1) individual who has completed the training requirement of section  
 44 33-520A(5) (b) or 54-1733C(4), Idaho Code;

45 ~~(h)~~8) Persons, agencies and organizations possessing opioid antago-  
 46 nists pursuant to section 54-1733B, Idaho Code;

47 ~~(i)~~9) Midwives licensed pursuant to section 54-5507, Idaho Code, lim-  
 48 ited to formulary drugs consistent with rules promulgated by the Idaho board  
 49 of midwifery;

1           (j10) Home health nurses or agencies, or hospice agencies, possessing  
2 emergency kits pursuant to rules of the board; and

3           (\*11) Chiropractic physicians licensed pursuant to chapter 7, title  
4 54, Idaho Code, and certified pursuant to sections 54-708 and 54-717, Idaho  
5 Code, limited to the prescription drug products listed in section 54-716,  
6 Idaho Code.

7           ~~(2) Veterinary drug outlets or their agents or employees may possess  
8 legend drugs, excluding controlled substances, for use in the usual and law-  
9 ful course of their business or practice or in the performance of their law-  
10 ful official duties, without a valid prescription drug order.~~

11           SECTION 16. That Section 54-1738, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13           54-1738. PROOF THAT A DRUG IS A PRESCRIPTION DRUG OR LEGEND DRUG. The  
14 following shall constitute prima facie evidence in any criminal or civil  
15 proceeding in this state that a drug is a prescription drug or legend drug:

16           (1) In the case of a drug for which a new drug application was submit-  
17 ted to the United States food and drug administration, the affidavit of an  
18 officer having legal custody of the official records of the United States  
19 food and drug administration stating that such records show that the new  
20 drug application was approved, setting forth the date of approval, and fur-  
21 ther stating that the records show that proposed labeling for the drug which  
22 includes the legend "Caution: ~~f~~Federal law prohibits dispensing without a  
23 prescription" was approved. The affidavit shall be accompanied by a cer-  
24 tificate that such officer has the custody.

25           (2) In the case of a drug for which the United States food and drug ad-  
26 ministration does not require an approved new drug application as a condi-  
27 tion for marketing the drug, the affidavit of an officer having legal cus-  
28 tody of the official records of the United States food and drug administra-  
29 tion stating that such records reflect that the drug meets the criteria of  
30 federal law to be regarded as a prescription drug and is required to bear the  
31 ~~legend~~ legend "Caution: ~~f~~Federal law prohibits dispensing without a pre-  
32 scription." The affidavit shall be accompanied by a certificate that such  
33 officer has the custody.

34           (3) In the case of a drug designated a prescription drug by action of  
35 the state board of pharmacy, independently of federal law, the affidavit of  
36 an officer having legal custody of the records of the state board of phar-  
37 macy stating that such records show that the drug has been denominated a pre-  
38 scription drug, to which shall be attached a copy of the official document  
39 evidencing such action. The affidavit shall be accompanied by a certificate  
40 that such officer has the custody.

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

44           SECTION 17. That Section 54-1754, Idaho Code, be, and the same is hereby  
45 amended to read as follows:

46           54-1754. RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor  
47 shall receive prescription drug returns or exchanges from a pharmacy or

1 chain pharmacy warehouse pursuant to the terms and conditions of the agree-  
2 ment between the wholesale distributor and the pharmacy or chain pharmacy  
3 warehouse. Returns of expired, damaged, recalled or otherwise nonsaleable  
4 pharmaceutical product shall be distributed by the receiving wholesale  
5 distributor only to either the original manufacturer or third-party re-  
6 turns processor, including a reverse distributor. Wholesale distributors  
7 and pharmacies shall be held accountable for administering their returns  
8 process and ensuring that the aspects of this operation are secure and do not  
9 permit the entry of adulterated and counterfeit product.

10 (2) A wholesale distributor shall not engage in the wholesale distri-  
11 bution of prescription drugs that are purchased from pharmacies or practi-  
12 tioners or from wholesale distributors that purchase them from pharmacies or  
13 practitioners.

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

23 (4) Prescription drugs furnished by a manufacturer or wholesale dis-  
24 tributor shall be delivered only to the ~~premises listed on the license~~  
25 registered address; provided that the manufacturer or wholesale distributor  
26 may furnish prescription drugs to an authorized person or agent of that per-  
27 son at the premises of the manufacturer or wholesale distributor if:

28 (a) The identity and authorization of the recipient is properly estab-  
29 lished; and

30 (b) This method of receipt is employed only to meet the immediate needs  
31 of a particular patient of the authorized person.

32 (5) Prescription drugs may be furnished to a hospital pharmacy receiv-  
33 ing area provided that a pharmacist or authorized receiving personnel signs,  
34 at the time of delivery, a receipt showing the type and quantity of the pre-  
35 scription drug so received. Any discrepancy between receipt and the type and  
36 quantity of the prescription drug actually received shall be reported to the  
37 delivering manufacturer or wholesale distributor by the next business day  
38 after the delivery to the pharmacy receiving area.

39 (6) A manufacturer or wholesale distributor shall not accept payment  
40 for, or allow the use of, a person's credit to establish an account for the  
41 purchase of prescription drugs from any person other than the owner(s) of  
42 record, the chief executive officer or the chief financial officer listed  
43 on the license of a person legally authorized to receive prescription drugs.  
44 Any account established for the purchase of prescription drugs must bear the  
45 name of the licensee.

46 SECTION 18. That Section 37-3201, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

48 37-3201. DEFINITIONS. As used in this chapter:

1 (1) "Code imprint" means a series of letters or numbers assigned by the  
2 manufacturer or distributor to a specific drug, or marks or monograms unique  
3 to the manufacturer or distributor of the drug, or both;

4 (2) "Distributor" means a person who distributes for resale a drug in  
5 solid dosage form under his own label even though he is not the actual manu-  
6 facturer of the drug;

7 (3) "Solid dosage form" means capsules or tablets intended for oral  
8 use;

9 (4) "Legend drug" means any drug defined by section 54-1705 (375), Idaho  
10 Code.

11 SECTION 19. That Section 54-1761, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765,  
14 Idaho Code:

15 (1) "Legend drug" has the same meaning as provided in section  
16 54-1705 (375), Idaho Code.

17 (2) "Medically indigent" means any person who is in need of a legend  
18 drug and who is not eligible for medicaid or medicare, who cannot afford pri-  
19 vate prescription drug insurance or who does not have income and other re-  
20 sources available sufficient to pay for the legend drug.

21 (3) "Patient assistance program" means a program in which pharmaceuti-  
22 cal manufacturers provide financial or medication assistance to low-income  
23 or medically indigent individuals.

24 (4) "Qualifying charitable clinic or center" means a community health  
25 center as defined in section 39-3203, Idaho Code, and means a free medical  
26 clinic as defined in section 39-7702, Idaho Code, acting in consultation  
27 with a pharmacist licensed in the state of Idaho; or a designated regional  
28 behavioral health center as identified in chapter 31, title 39, Idaho Code;  
29 or a state charitable institution as defined in chapter 1, title 66, Idaho  
30 Code, acting in consultation with a pharmacist, physician, physician assis-  
31 tant or advanced practice professional nurse with prescriptive authority  
32 licensed in the state of Idaho.

33 SECTION 20. That Section 54-4702, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 54-4702. DEFINITIONS. As used in this chapter:

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

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



1           (3) "NCCAOM" means "National Certification Commission for Acupuncture  
2 and Oriental Medicine."

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

8           (a) Surgery; or

9           (b) Prescribing, dispensing or administering any prescription drug or  
10 legend drug as defined in section 54-1705 (375), Idaho Code.

11           SECTION 21. An emergency existing therefor, which emergency is hereby  
12 declared to exist, this act shall be in full force and effect on and after its  
13 passage and approval.