

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO LEGEND DRUGS; AMENDING SECTION 54-1761, IDAHO CODE, TO DEFINE  
2 TERMS; AND AMENDING SECTION 54-1762, IDAHO CODE, TO PROVIDE THAT QUALI-  
3 FYING CHARITABLE CLINICS, REGIONAL BEHAVIORAL HEALTH CENTERS OR STATE  
4 CHARITABLE INSTITUTIONS MAY ACCEPT DONATIONS OF CERTAIN MEDICATIONS  
5 AND DISPENSE THOSE MEDICATIONS UNDER CERTAIN CIRCUMSTANCES.  
6

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

8 SECTION 1. That Section 54-1761, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765,  
11 Idaho Code:

12 (1) "Legend drug" has the same meaning as provided in section  
13 54-1705(37), Idaho Code.

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

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

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

30 SECTION 2. That Section 54-1762, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 54-1762. IDAHO LEGEND DRUG DONATION ACT. (1) The board of pharmacy  
33 shall establish and implement a program through which legend drugs may be  
34 transferred from a ~~nursing home~~ qualified donor that elects to participate  
35 in the program for the purpose of distribution to a qualifying charitable  
36 clinic or center for donation to qualifying medically indigent patients.

37 (2) A qualifying charitable clinic or center shall establish proced-  
38 ures consistent with the Idaho legend drug donation act and rules promul-  
39 gated thereunder.

1 (3) The acceptance and distribution of legend drugs for use in the pro-  
2 gram shall be subject to the following requirements:

3 (a) Donated drugs shall be in the manufacturer's original, sealed and  
4 tamper evident packaging, including drugs packaged in single unit doses  
5 when the outside packaging is open and the single unit dose packaging is  
6 intact, except for patient assistance program medications as described  
7 in subsection (8) of this section, which must be originally received by  
8 the qualifying designated regional behavioral health center or qual-  
9 ifying state charitable institution and remain under the control and  
10 storage of such center or institution. Drugs that have been previously  
11 dispensed by a pharmacy in unit dose packaging may be donated provided  
12 that the packaging is sealed, tamper evident and properly labeled.

13 (b) Only drugs that bear a clear and verifiable lot number and expira-  
14 tion date may be accepted and dispensed. However, drugs that bear an ex-  
15 piration date that is less than three (3) months from the date the drug  
16 is donated shall not be accepted and dispensed.

17 (c) Drugs and other substances provided in schedules II through V of ar-  
18 ticle II, chapter 27, title 37, Idaho Code, shall not be accepted and  
19 shall not be dispensed.

20 (d) A drug shall not be accepted or dispensed if the person accepting or  
21 dispensing the drug has reason to believe that the drug has been adul-  
22 terated.

23 (4) The following entities that are licensed or registered in the state  
24 of Idaho are qualified donors and may donate legend drugs to a qualifying  
25 charitable clinic or center:

- 26 (a) Pharmacies;
- 27 (b) Hospitals and nursing homes;
- 28 (c) Drug manufacturers; ~~and~~
- 29 (d) Wholesale distributors; and
- 30 (e) Prescriber drug outlets.

31 (5) The following entities may accept legend drugs:

- 32 (a) A qualifying charitable clinic's or center's pharmacy; ~~or~~
- 33 (b) A qualifying charitable clinic or center in consultation with a  
34 pharmacist licensed in the state of Idaho; or
- 35 (c) A qualifying charitable clinic or center designated as a regional  
36 behavioral health center or a state charitable institution acting in  
37 consultation with a pharmacist, physician, physician assistant or  
38 advanced practice professional nurse with prescriptive authority li-  
39 icensed in the state of Idaho.

40 (6) Any qualifying charitable clinic or center that participates in the  
41 program may dispense drugs donated under the Idaho legend drug donation act  
42 to persons who are medically indigent residents of the state of Idaho.

43 (7) Any qualifying charitable clinic or center dispensing legend drugs  
44 shall:

- 45 (a) Comply with the provisions of the Idaho legend drug donation act and  
46 all rules promulgated thereunder;
- 47 (b) Comply with all applicable federal and state laws related to the  
48 storage and distribution of drugs;
- 49 (c) Inspect all drugs prior to dispensing to determine that such drugs  
50 have not been adulterated; and

- 1 (d) Dispense drugs only pursuant to a valid prescription.
- 2 (8) A qualifying charitable clinic or center designated as a regional  
3 behavioral health center or state charitable institution may accept unused  
4 patient assistance program medications as donations for use and may dispense  
5 these medications if:
- 6 (a) The unused patient assistance program medication has remained un-  
7 der the control of the designated regional behavioral health center or  
8 state charitable institution;
- 9 (b) The storage of the medication complies with all applicable federal  
10 and state laws; and
- 11 (c) At least one (1) of the following applies:
- 12 (i) The original recipient of the patient assistance program med-  
13 ication no longer has a valid prescription order for the medica-  
14 tion;
- 15 (ii) The patient assistance program medication was not picked up  
16 for the use of the original recipient; or
- 17 (iii) The original recipient of the patient assistance program  
18 medication is no longer receiving services from the regional be-  
19 havioral health center or state charitable institution.
- 20 (9) Participation in the program is voluntary and nothing in the Idaho  
21 legend drug donation act shall require any person or entity to participate in  
22 the program.
- 23 (910) Nothing in the Idaho legend drug donation act shall prohibit or  
24 restrict the return of unused prescription drugs to the Idaho medicaid pro-  
25 gram pursuant to rules promulgated by the Idaho department of health and wel-  
26 fare.