

IN THE SENATE

SENATE BILL NO. 1320, As Amended

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AMENDING SECTION 54-1761, IDAHO CODE, TO REMOVE A DEFINITION, TO FURTHER DEFINE A TERM AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1762, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AMENDING SECTION 54-1763, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD OF PHARMACY'S DUTIES AND POWERS; AND DECLARING AN EMERGENCY.

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

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

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

(1) ~~"Donating entity" means pharmacies, hospitals, nursing homes, drug manufacturers and wholesale distributors.~~

~~(2)~~ "Legend drug" has the same meaning as provided in section 54-1705 ~~(2830)~~, Idaho Code.

~~(3)~~ "Medically indigent" means any person who is in need of a legend drug and who is not eligible for medicaid or medicare, who cannot afford private prescription drug insurance or who does not have income and other resources available sufficient to pay for the legend drug.

~~(4)~~ "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code, acting in consultation with a pharmacist licensed in the state of Idaho.

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

54-1762. IDAHO LEGEND DRUG DONATION ACT. (1) The board of pharmacy shall establish and implement a program through which legend drugs may be transferred from a ~~donating entity~~ nursing home that elects to participate in the program for the purpose of distribution to a qualifying charitable clinic's or center's pharmacy or to a qualifying charitable center or ~~clinic acting in consultation with a pharmacist~~ for donation to qualifying medically indigent patients.

(2) A qualifying charitable ~~center or clinic in consultation with a pharmacist or center~~ shall establish procedures consistent with the Idaho legend drug donation act and rules promulgated thereunder.

(3) The acceptance and distribution of legend drugs for use in the program shall be subject to the following requirements:

(a) ~~Only~~ Donated drugs shall be in the manufacturer's original, sealed and tamper evident packaging, ~~shall be accepted and dispensed, except~~

1 ~~that including~~ drugs packaged in single unit doses ~~may be accepted~~  
 2 ~~and distributed~~ when the outside packaging is open and the single unit  
 3 dose packaging is intact. Drugs that have been previously dispensed  
 4 by a pharmacy in unit dose packaging may be donated provided that the  
 5 packaging is sealed, tamper evident and properly labeled.

6 (b) Only drugs that bear a clear and verifiable lot number and  
 7 expiration date may be accepted and dispensed. However, drugs that bear  
 8 an expiration date that is less than three (3) months from the date the  
 9 drug is donated shall not be accepted and dispensed.

10 (c) Drugs and other substances provided in schedules II through V of  
 11 article II, chapter 27, title 37, Idaho Code, shall not be accepted and  
 12 shall not be dispensed.

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

16 (4) The following entities that are licensed or registered in the state  
 17 of Idaho may donate legend drugs to a qualifying charitable clinic or center:

- 18 (a) Pharmacies;
- 19 (b) Hospitals and nursing homes;
- 20 (c) Drug manufacturers; and
- 21 (d) Wholesale distributors.

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

- 23 (a) A qualifying charitable clinic's or center's pharmacy; or
- 24 (b) A qualifying charitable ~~center or clinic~~ or center in consultation  
 25 with a pharmacist licensed in the state of Idaho.

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

29 (7) Any qualifying charitable clinic or center dispensing legend drugs  
 30 shall:

- 31 (a) Comply with the provisions of the Idaho legend drug donation act and  
 32 all rules promulgated thereunder;
- 33 (b) Comply with all applicable federal and state laws related to the  
 34 storage and distribution of drugs;
- 35 (c) Inspect all drugs prior to dispensing to determine that such drugs  
 36 have not been adulterated; and
- 37 (d) Dispense drugs only pursuant to a valid prescription.

38 (8) Participation in the program is voluntary and nothing in the Idaho  
 39 legend drug donation act shall require any person or entity to participate in  
 40 the program.

41 (9) Nothing in the Idaho legend drug donation act shall prohibit or  
 42 restrict the return of unused prescription drugs to the Idaho medicaid  
 43 program pursuant to rules promulgated by the Idaho department of health and  
 44 welfare.

45 SECTION 3. That Section 54-1763, Idaho Code, be, and the same is hereby  
 46 amended to read as follows:

47 54-1763. BOARD DUTIES AND POWERS. (1) The board of pharmacy shall  
 48 adopt rules necessary for the ~~implementation and enforcement of the program~~  
 49 ~~established under the Idaho legend drug donation act and for the enforcement~~

1 ~~of board rules promulgated thereunder~~ donation of legend drugs to qualifying  
2 charitable clinics or centers by nursing homes, including:

3 (a) Standards and procedures for the transfer, acceptance and safe  
4 storage of donated drugs;

5 (b) Standards and procedures for inspecting donated drugs to ensure  
6 that the drugs are in compliance with the provisions of the Idaho legend  
7 drug donation act and all federal and state product integrity standards  
8 and regulations;

9 (c) Standards and procedures for the distribution of donated drugs to a  
10 qualifying charitable ~~centers or clinics~~ or center;

11 (d) Standards and procedures for the dispensing of donated drugs to  
12 qualifying medically indigent patients; and

13 (e) Any other standards and procedures the board deems appropriate or  
14 necessary to implement or enforce the provisions of the Idaho legend  
15 drug donation act.

16 (2) The board shall provide technical assistance to ~~entities that~~  
17 participate participants in the program.

18 SECTION 4. An emergency existing therefor, which emergency is hereby  
19 declared to exist, this act shall be in full force and effect on and after its  
20 passage and approval.