LEGISLATURE OF THE STATE OF IDAHO  
Sixty-second Legislature Second Regular Session - 2014

IN THE SENATE  

SENATE BILL NO. 1327  

BY EDUCATION COMMITTEE

AN ACT  
RELATING TO LIFE-THREATENING ALLERGIES IN SCHOOLS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-520A, IDAHO CODE, TO DEFINE TERMS, TO AUTHORIZE SCHOOLS TO VOLUNTARILY MAINTAIN A SUPPLY OF EPINEPHRINE AUTO-INJECTORS, TO PROVIDE FOR THE USE OF EPINEPHRINE AUTO-INJECTORS, TO AUTHORIZE SCHOOLS TO ENTER INTO ARRANGEMENTS WITH MANUFACTURERS OF EPINEPHRINE AUTO-INJECTORS, TO PROVIDE GUIDELINES FOR PARTICIPATION AND TO PROVIDE FOR PROTECTION FROM LIABILITY FOR GOOD SAMARITANS; AMENDING SECTION 54-1705, IDAHO CODE, TO ADD A DEFINITION; AMENDING SECTION 54-1732, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE LABELING OF A LEGEND DRUG AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733, IDAHO CODE, TO PROVIDE FOR EPINEPHRINE AUTO-INJECTORS WHEN A PRESCRIBER DOES NOT HAVE A PRESCRIBER-PATIENT RELATIONSHIP; AMENDING SECTION 54-1734, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR SCHOOLS POSSESSING STOCK SUPPLIES OF EPINEPHRINE AUTO-INJECTORS; AMENDING SECTIONS 37-3201 AND 54-1761, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTIONS 54-4702 AND 54-5110, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-520A, Idaho Code, and to read as follows:

33-520A. LIFE-THREATENING ALLERGIES IN SCHOOLS -- GUIDELINES, STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS AND EMERGENCY ADMINISTRATION. (1) As used in this section, the following definitions shall apply:

(a) "Administer" means the direct application of an epinephrine auto-injector to the body of an individual.
(b) "Designated school personnel" means an employee, agent or volunteer of a school designated by the governing authority of a school who has completed the training to provide or administer an epinephrine auto-injector to a student.
(c) "Epinephrine auto-injector" means a device that automatically injects a premeasured dose of epinephrine.
(d) "Provide" means the supply of one (1) or more epinephrine auto-injectors to an individual.
(e) "School" means any public or nonpublic school.
(f) "Self-administration" means a student or other person's discretionary use of an epinephrine auto-injector, whether provided by the student or by a school nurse or designated school personnel pursuant to the provisions of this section.

(2) Any physician, advanced practice registered nurse licensed to prescribe or physician assistant licensed to prescribe pursuant to title 54,
Idaho Code, may prescribe epinephrine auto-injectors in the name of a school to be maintained for use in accordance with subsection (3) of this section. Licensed pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in accordance with this subsection. A school may maintain a stock supply of epinephrine auto-injectors.

(3) The governing authority of a school may authorize school nurses and designated school personnel to do the following:

(a) Provide an epinephrine auto-injector to a student to self-administer the epinephrine auto-injector in accordance with a prescription specific to the student on file with the school nurse; and

(b) Administer an epinephrine auto-injector to a student in accordance with a prescription specific to the student on file with the school nurse; and

(c) Administer an epinephrine auto-injector to any student or other individual on school premises that the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.

(4) A school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair market price, reduced price or free.

(5) The governing authority of a school that participates in supplying and administering epinephrine auto-injectors pursuant to the provisions of this section shall do the following:

(a) Require each school that maintains a stock supply and administers epinephrine auto-injectors to submit a report of each incident at the school or related school event involving a severe allergic reaction or the administration of an epinephrine auto-injector to the governing authority of the school or its designee; and

(b) Establish detailed standards for training programs that must be completed by designated school personnel in order to provide or administer an epinephrine auto-injector in accordance with this section. Such training may be conducted online and, at a minimum, shall cover:

(i) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

(ii) Standards and procedures for the storage, administration and disposal of an epinephrine auto-injector; and

(iii) Emergency follow-up procedures.

(6) There shall be no civil liability for any damages for a physician, advanced practice registered nurse, physician's assistant or pharmacist providing a prescription or standing protocol for school epinephrine auto-injectors consistent with the standard of care for the provider. Further, there shall be no civil liability for damages for a school or its employees or agents for any injuries that result from the administration or self-administration of an epinephrine auto-injector regardless of whether authorization for use was given by the student's parents, guardian or medical provider provided the actions taken in administering or providing the injector were reasonable under the circumstances. The liability protections in this section do not apply to acts or omissions constituting gross
negligence, those that are reckless or that constitute willful and wanton
behavior. The liability protections in this section are in addition to any
provided under section 5-330, Idaho Code.

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

54-1705. DEFINITIONS. In this chapter:
(1) "Board of pharmacy" or "board" means the Idaho state board of phar-
     macy.
(2) "Central drug outlet" means a resident or nonresident pharmacy, 
     drug outlet, or business entity employing or contracting pharmacists to 
     perform centralized pharmacy services.
(3) "Central pharmacist" means a pharmacist performing centralized 
     pharmacy services.
(4) "Centralized pharmacy services" means the processing by a central 
     drug outlet or central pharmacist of a request from another pharmacy to fill, 
     refill, or dispense a prescription drug order, perform processing functions 
     or provide cognitive or pharmaceutical care services. Each function may be 
     performed by the same or different persons and at the same or different loca-
     tions.
(5) "Compounding" means the act of incorporating two (2) or more sub-
     stances to create a finished drug product.
(6) "Counseling" or "counsel" means the effective communication by 
     the pharmacist of information as set out in this chapter, to the patient or 
     caregiver, in order to improve therapeutic outcomes by maximizing proper use 
     of prescription drugs and devices. Specific areas of counseling shall in-
     clude, but are not limited to:
     (a) Name and strength and description of the drug;
     (b) Route of administration, dosage, dosage form, continuity of ther-
         apy and refill information;
     (c) Special directions and precautions for preparation, administra-
         tion, storage and use by the patient as deemed necessary by the pharma-
         cist;
     (d) Side effects or adverse effects and interactions and therapeutic 
         contraindications that may be encountered, including their avoidance, 
         which may interfere with the proper use of the drug or device as was in-
         tended by the prescriber, and the action required if they occur;
     (e) Techniques for self-monitoring drug therapy; and
     (f) Action to be taken in the event of a missed dose.
(7) "Deliver" or "delivery" means the actual, constructive or at-
     tempted transfer of a drug or device from one (1) person to another, whether 
     or not for a consideration.
(8) "Device" means an instrument, apparatus, implement, machine, con-
     trivance, implant, in vitro reagent or other similar related article includ-
     ing any component part or accessory which is:
     (a) Recognized in the official United States Pharmacopoeia or official 
         National Formulary, other drug compendia or any supplement to them;
     (b) Intended for use in the diagnosis of disease or other conditions, or 
         the cure, mitigation, treatment or prevention of disease in man or other 
         animal;
(c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

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

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

(101) "Drug" means:
(a) Articles recognized as drugs in the official United States Pharmacopeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;
(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;
(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and
(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

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

(123) "Drug outlets" means all resident or nonresident pharmacies, business entities and other facilities where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

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

(125) "Externship" means a structured practical experience program in pharmacy administered by a school or college of pharmacy.

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

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

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

(129) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.
"Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law.

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

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

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

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

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

"Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entabbling, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

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

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

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

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

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

(250) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifi-
cations, responsibilities and reporting requirements are defined in rule.

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

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

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

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

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

(356) "Prescription drug or legend drug" means a drug which, under fed-
eral law is required, prior to being dispensed or delivered, to be labeled
with one (1) of the following statements:

(a) "Caution: Federal law prohibits dispensing without a prescrip-
tion"; or
(b) "Rx Only"; or
(c) "Caution: Federal law restricts this drug to use by or on the order
of a licensed veterinarian";

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

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

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

(a) Evaluation of the prescription drug order for:

(i) Known allergies;
(ii) Rational therapy contraindications;
(iii) Reasonable dose and route of administration; and
(iv) Reasonable directions for use.
(b) Evaluation of the prescription drug order for duplication of therapy.

(c) Evaluation of the prescription drug order for interactions:
   (i) Drug-drug;
   (ii) Drug-food; and
   (iii) Drug-disease.

(d) Evaluation of the prescription drug order for proper utilization:
   (i) Over or under utilization; and
   (ii) Abuse/misuse.

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

(3340) "Sale" means every sale and includes:
(a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;
(b) Exposure, offer, or any other proffer;
(c) Holding, storing or any other possession;
(d) Dispensing, giving, delivering or any other supplying; and
(e) Applying, administering or any other usage.

(3341) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage.

(402) "Wholesaler" means a person engaged in the business of distributing legend drugs that he himself has not produced or prepared, to persons included in any of the classes named in subsection (2)(a) through (f) of section 54-1734, Idaho Code.

SECTION 3. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

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

   (2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(6), Idaho Code.

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

(ii) There is affixed, in the case of a legend drug dispensed or delivered by a pharmacist or prescriber, to the immediate con-
tainer in which such drug is delivered there is a label bearing the
name, address, and phone number of the establishment from which
such drug was dispensed; the date on which the prescription for
such drug was filled; the number of such prescription as filed in
the prescription files of the pharmacist who filled the prescrip-
tion; the name of the practitioner who prescribed such drug; the
name of the patient, and if such drugs were prescribed for an ani-
mal, a statement of the species of the animal; and the directions
for the use of the drug as contained in the prescription; or in
the case of a legend drug delivered or administered by a practi-
tioner in the course of his practice, the immediate container in
which such drug is delivered bears a label on which appears the di-
rections for use of such drug; the name and address of such practi-
tioner; the name of the patient; and if such drug is prescribed for
an animal, a statement of the species of the animal affixed to the
immediate container in which such drug is dispensed. Any person
violating this subparagraph shall be guilty of a misdemeanor and
upon conviction thereof shall be fined not more than five hundred
dollars ($500). Nothing in this subparagraph prohibits a prac-
titioner from delivering professional samples of legend drugs in
their original containers in the course of his practice when oral
directions for use are given at the time of such delivery.

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

(c) The possession or use of a legend drug or a precursor by any person
unless such person obtains such drug on the prescription or drug order
of a practitioner. Any person guilty of violating this paragraph shall
be guilty of a misdemeanor and upon conviction thereof shall be incar-
cerated in the county jail for a term not to exceed one (1) year, or punish-
ed by a fine of not more than one thousand dollars ($1,000) or by both
such fine and incarceration.

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

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

(f) It is unlawful to:

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

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

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

(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

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

(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

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

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

(4) Provided however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall comply with the provisions of be affixed pursuant to subsection (3) (a) (ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

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

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

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

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) Except as pro-
vided in subsection (4) of this section, a prescription drug order for a
legend drug is not valid unless it is issued for a legitimate medical purpose
arising from a prescriber-patient relationship which includes a documented
patient evaluation adequate to establish diagnoses and identify underlying
conditions and/or contraindications to the treatment. Treatment, including
issuing a prescription drug order, based solely on an online questionnaire
or consultation outside of an ongoing clinical relationship does not consti-
tute a legitimate medical purpose. A prescription drug order may be issued
either:

(a) By a practitioner acting in the usual course of his profession; or
(b) By a physician, dentist, veterinarian, scientific investigator or
other person, other than a pharmacist, who is licensed in a jurisdi-
tion other than the state of Idaho and is permitted by such license to
dispense, conduct research with respect to or administer the prescribed
legend drugs in the course of his professional practice or research in
such jurisdiction, so long as the individual is acting within the juris-
diction, scope and authority of his license when issuing the prescrip-
tion drug order.
(c) The prescription drug order may be signed and sent electronically
pursuant to chapter 50, title 28, Idaho Code.
(d) Transmission of prescription drug order. In addition to delivery
of the original signed written prescription drug order to a licensed
pharmacy:

(i) A prescription drug order that has been signed by the practi-
tioner may be received by a licensed pharmacy for dispensing pur-
poses through a facsimile transmission from the prescribing prac-
titioner or the practitioner's agent, or from an institutional fa-
cility for a patient or resident in such facility;
(ii) A prescription drug order may also be received by a licensed
pharmacist verbally from the practitioner, the practitioner's
agent or from a licensed practical nurse or licensed professional
nurse in an institutional facility for a patient or resident in
such facility;
(iii) A prescription drug order received verbally from the prac-
titioner by a licensed practical nurse or licensed professional
nurse in a licensed institutional facility for a patient or resi-
dent in such facility may also be sent by facsimile transmission
from the institutional facility to a licensed pharmacy for dis-
ensing purposes provided the transmitted document includes the
name of the prescriber issuing the prescription drug order, the
name of the nurse who transcribed the order and the name of the per-
son who sent the facsimile.
(e) In the event that there are no refills remaining on an existing pre-
scription drug order, and the pharmacist requests a new prescription
drug order from the practitioner, the practitioner's agent, after ob-
taining practitioner authorization, may sign and return the request via
facsimile so long as:
   (i) The request is generated from the pharmacy;
   (ii) The request is for medication that the patient is currently
taking;
   (iii) There are no changes to the type of drug, its strength or di-
rections for the continuation of therapy;
   (iv) The practitioner's agent's transmission is received via fac-
simile from the practitioner's office; and
   (v) The request, which is subsequently transmitted back to the
requesting pharmacy by the practitioner's agent, contains all
components of a valid prescription drug order.
(2) It is unlawful for a practitioner to knowingly issue an invalid pre-
scription drug order for a legend drug.
(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an
invalid prescription drug order for a legend drug.
(4) A prescriber who is otherwise authorized to perform any of the ac-
tivities listed in this subsection may prescribe or perform any of the fol-
lowing activities for a patient with whom the prescriber does not have a pre-
scriber-patient relationship under the following circumstances:
   (a) Writing initial admission orders for a newly hospitalized patient;
   (b) Writing a prescription for a patient of another prescriber for whom
the prescriber is taking call;
   (c) Writing a prescription for a patient examined by a physician as-
sistant, advanced practice registered nurse or other licensed practi-
tioner with whom the prescriber has a supervisory or collaborative re-
relationship;
   (d) Writing a prescription for medication on a short-term basis for a
new patient prior to the patient's first appointment;
   (e) In emergency situations where life or health of the patient is in
imminent danger;
   (f) In emergencies that constitute an immediate threat to the public
health including, but not limited to, empiric treatment or prophylaxis
to prevent or control an infectious disease outbreak;
   (g) Epinephrine auto-injectors in the name of a school pursuant to sec-
tion 33-520A, Idaho Code;
   (h) If a prescriber makes a diagnosis of a sexually transmitted disease
in a patient, the prescriber may prescribe or dispense antibiotics to
the infected patient's named sexual partner or partners for treatment
of the sexually transmitted disease as recommended by the most current
centers for disease control and prevention (CDC) guidelines.
(5) Prescribing drugs to individuals without a prescriber-patient re-
relationship and not in accordance with this section shall be unprofessional
conduct and the prescriber shall be subject to discipline according to the
provisions of the Idaho Code chapter pursuant to which the prescriber is licensed, certified or registered.

SECTION 5. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. EXCEPTIONS. The provisions of this chapter pertaining to the sale of prescription drugs are not applicable:
(1) To the sale of legend drugs to persons included in any of the classes named in paragraphs (a) through (g) in subsection (2) of this section, or to the agents or employees of such persons, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, as the case may be; or
(2) To the possession of legend drugs by such persons or their agents or employees for such use:
   (a) Pharmacists;
   (b) Practitioners;
   (c) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale;
   (d) Hospitals and other institutions which procure legend drugs for lawful administration by practitioners;
   (e) Manufacturers and wholesalers;
   (f) Carriers and warehousemen; and
   (g) Schools possessing stock supplies of epinephrine auto-injectors pursuant to section 33-520A, Idaho Code.
(3) To the sale by a business not licensed as a pharmacy of legend drugs (excluding controlled substances) designated for veterinary use which require a prescription, provided that:
   (a) The business is registered and licensed with the board of pharmacy.
   (b) The sale is authorized by a written or oral order from a veterinarian licensed in this or another state.
      1. Prior to dispensing an order from an out-of-state veterinarian, the seller must confirm and document that the veterinarian is properly licensed in his state.
      2. Oral orders must be confirmed by the veterinarian in writing no later than seven (7) days after the seller receives the order.
   (c) The written order or confirmation of an oral order must be retained on the premises of the business for at least two (2) years after the original date of the order.

SECTION 6. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

37-3201. DEFINITIONS. As used in this chapter:
(1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;
(2) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;
(3) "Solid dosage form" means capsules or tablets intended for oral use;
(4) "Legend drug" means any drug defined by section 54-1705(326), Idaho Code.

SECTION 7. 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) "Legend drug" has the same meaning as provided in section 54-1705(326), Idaho Code.
(2) "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.
(3) "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 8. That Section 54-4702, Idaho Code, be, and the same is hereby amended to read as follows:

54-4702. DEFINITIONS. As used in this chapter:
(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, mechanical, thermal, electrical and electromagnetic treatment of such specific indicated points. Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.
(2) "Board" means the Idaho state board of acupuncture.
(3) "NCCAOM" means "National Certification Commission for Acupuncture and Oriental Medicine."
(4) "Practice of acupuncture" means the insertion of acupuncture needles and use of similar devices and therapies, including application of moxibustion, to specific indicated points on the skin of the human body as indicated pursuant to traditional and modern theories of Oriental medicine. The "practice of acupuncture" does not include:
(a) Surgery; or
(b) Prescribing, dispensing or administering any prescription drug or legend drug as defined in section 54-1705(326), Idaho Code.

SECTION 9. That Section 54-5110, Idaho Code, be, and the same is hereby amended to read as follows:
54-5110. NATUROPATHIC MEDICAL FORMULARY COUNCIL ESTABLISHED. There is hereby established a naturopathic medical formulary council, which is separate and distinct from the board, to be composed of seven (7) members. Two (2) members shall be naturopathic physicians licensed under this chapter and appointed by the board of naturopathic medical examiners. Three (3) members shall be pharmacists licensed under chapter 17, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of pharmacy. Two (2) members shall be physicians licensed under chapter 18, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of medicine. The initial council shall be appointed as follows: One (1) naturopathic physician shall be appointed for a one (1) year term; one (1) physician licensed under chapter 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two (2) year term; and two (2) pharmacists, one (1) naturopathic physician and one (1) physician licensed under chapter 18, title 54, Idaho Code, shall be appointed for a three (3) year term. Thereafter, the term of office shall be three (3) years. A quorum shall consist of five (5) members and shall be required for any vote to be taken. It shall be the duty of the naturopathic medical formulary council to establish a formulary for use by naturopathic physicians, and immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board, which shall adopt the formulary by temporary rule. The formulary will be reviewed annually by the council, or at any time at the request of the board. The formulary list may not go beyond the scope of prescription medicines and medical devices covered by approved naturopathic medical education and training and existing naturopathic medical formularies, or board-approved continuing education. The naturopathic medical formulary shall not include medicines and devices that are inconsistent with the training provided by approved naturopathic medical colleges. Nothing herein shall allow a naturopathic physician to dispense, administer or prescribe any prescription drug as defined in section 54-1705(326), Idaho Code, or medical device unless such prescription drug or medical device is specifically included in the naturopathic medical formulary.