

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 6

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PRESCRIPTION DRUGS; AMENDING SECTION 54-1733, IDAHO CODE, TO
2 PROVIDE THAT PRESCRIPTION DRUG ORDERS ARE VALID ONLY IF ISSUED BY A
3 PRESCRIBER UNDER CERTAIN CIRCUMSTANCES, TO REMOVE LANGUAGE RELATING TO
4 TRANSMISSION OF PRESCRIPTION DRUG ORDERS AND TO PROVIDE THAT CERTAIN
5 ACTS ARE UNLAWFUL AND CONSTITUTE UNPROFESSIONAL CONDUCT; AND AMEND-
6 ING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
7 54-1733A, IDAHO CODE, TO PROVIDE THAT PRESCRIPTION DRUG ORDERS MAY BE
8 TRANSMITTED IN CERTAIN WAYS.
9

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

11 SECTION 1. That Section 54-1733, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) ~~Except as provided~~
14 ~~in subsection (4) of this section, a~~ A prescription drug order for a legend
15 drug is ~~not valid unless only if it is issued by a prescriber~~ for a legitimate
16 medical purpose arising from a prescriber-patient relationship which in-
17 cludes a documented patient evaluation adequate to establish diagnoses and
18 identify underlying conditions and/or contraindications to the treatment.

19 (2) A prescriber who is otherwise authorized to perform any of the
20 activities listed herein may prescribe or perform any of the following
21 activities for a patient with whom the prescriber does not have a pre-
22 scriber-patient relationship under the following circumstances:

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

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

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

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

32 (e) In emergency situations where the life or health of the patient is
33 in imminent danger;

34 (f) In emergencies that constitute an immediate threat to the public
35 health including, but not limited to, empiric treatment or prophylaxis
36 to prevent or control an infectious disease outbreak;

37 (g) Epinephrine auto-injectors in the name of a school pursuant to sec-
38 tion 33-520A, Idaho Code; and

39 (h) If a prescriber makes a diagnosis of a sexually transmitted disease
40 in a patient, the prescriber may prescribe or dispense antibiotics to
41 the infected patient's named sexual partner or partners for treatment

1 of the sexually transmitted disease as recommended by the most current
2 centers for disease control and prevention (CDC) guidelines.

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

6 (4) A prescription drug order ~~may~~ shall only be issued either:

7 ~~(a) Bby a practitioner acting in the usual course of his profession; or~~

8 ~~(b) By prescriber including a physician, dentist, veterinarian, scien-~~
9 ~~tific investigator or other person, other than a pharmacist, prescriber~~
10 ~~who is licensed in a jurisdiction other than the state of Idaho and is~~
11 ~~permitted by such license to dispense, conduct research with respect to~~
12 ~~or administer the prescribed prescribe legend drugs in the course of his~~
13 ~~professional practice or research in such jurisdiction, so long as the~~
14 ~~individual is acting within the jurisdiction, scope and authority of~~
15 ~~his license when issuing the prescription drug order.~~

16 ~~(c) The prescription drug order may be signed and sent electronically~~
17 ~~pursuant to chapter 50, title 28, Idaho Code.~~

18 ~~(d) Transmission of prescription drug order. In addition to delivery~~
19 ~~of the original signed written prescription drug order to a licensed~~
20 ~~pharmacy:~~

21 ~~(i) A prescription drug order that has been signed by the practi-~~
22 ~~tioner may be received by a licensed pharmacy for dispensing pur-~~
23 ~~poses through a faesimile transmission from the prescribing prac-~~
24 ~~titioner or the practitioner's agent, or from an institutional fa-~~
25 ~~ility for a patient or resident in such facility;~~

26 ~~(ii) A prescription drug order may also be received by a licensed~~
27 ~~pharmacist verbally from the practitioner, the practitioner's~~
28 ~~agent or from a licensed practical nurse or licensed professional~~
29 ~~nurse in an institutional facility for a patient or resident in~~
30 ~~such facility;~~

31 ~~(iii) A prescription drug order received verbally from the prac-~~
32 ~~titioner by a licensed practical nurse or licensed professional~~
33 ~~nurse in a licensed institutional facility for a patient or resi-~~
34 ~~dent in such facility may also be sent by facsimile transmission~~
35 ~~from the institutional facility to a licensed pharmacy for dis-~~
36 ~~persing purposes provided the transmitted document includes the~~
37 ~~name of the prescriber issuing the prescription drug order, the~~
38 ~~name of the nurse who transcribed the order and the name of the per-~~
39 ~~son who sent the facsimile.~~

40 ~~(e) In the event that there are no refills remaining on an existing pre-~~
41 ~~scription drug order, and the pharmacist requests a new prescription~~
42 ~~drug order from the practitioner, the practitioner's agent, after ob-~~
43 ~~taining practitioner authorization, may sign and return the request via~~
44 ~~faesimile so long as:~~

45 ~~(i) The request is generated from the pharmacy;~~

46 ~~(ii) The request is for medication that the patient is currently~~
47 ~~taking;~~

48 ~~(iii) There are no changes to the type of drug, its strength or di-~~
49 ~~rections for the continuation of therapy;~~

1 ~~(iv) The practitioner's agent's transmission is received via fac-~~
 2 ~~simile from the practitioner's office; and~~

3 ~~(v) The request, which is subsequently transmitted back to the~~
 4 ~~requesting pharmacy by the practitioner's agent, contains all~~
 5 ~~components of a valid prescription drug order.~~

6 ~~(2) It is unlawful for a practitioner to knowingly issue an invalid pre-~~
 7 ~~scription drug order for a legend drug.~~

8 ~~(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an~~
 9 ~~invalid prescription drug order for a legend drug.~~

10 ~~(4) A prescriber who is otherwise authorized to perform any of the ac-~~
 11 ~~tivities listed in this subsection may prescribe or perform any of the fol-~~
 12 ~~lowing activities for a patient with whom the prescriber does not have a pre-~~
 13 ~~scriber-patient relationship under the following circumstances:~~

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

15 ~~(b) Writing a prescription for a patient of another prescriber for whom~~
 16 ~~the prescriber is taking call;~~

17 ~~(c) Writing a prescription for a patient examined by a physician as-~~
 18 ~~istant, advanced practice registered nurse or other licensed practi-~~
 19 ~~titioner with whom the prescriber has a supervisory or collaborative re-~~
 20 ~~lationship;~~

21 ~~(d) Writing a prescription for medication on a short-term basis for a~~
 22 ~~new patient prior to the patient's first appointment;~~

23 ~~(e) In emergency situations where life or health of the patient is in~~
 24 ~~imminent danger;~~

25 ~~(f) In emergencies that constitute an immediate threat to the public~~
 26 ~~health including, but not limited to, empiric treatment or prophylaxis~~
 27 ~~to prevent or control an infectious disease outbreak;~~

28 ~~(g) Epinephrine auto-injectors in the name of a school pursuant to sec-~~
 29 ~~tion 33-520A, Idaho Code;~~

30 ~~(h) If a prescriber makes a diagnosis of a sexually transmitted disease~~
 31 ~~in a patient, the prescriber may prescribe or dispense antibiotics to~~
 32 ~~the infected patient's named sexual partner or partners for treatment~~
 33 ~~of the sexually transmitted disease as recommended by the most current~~
 34 ~~centers for disease control and prevention (CDC) guidelines.~~

35 ~~(5) Prescribing~~ The following acts shall be unlawful:

36 (a) To knowingly issue an invalid prescription drug order for a legend
 37 drug;

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

40 (c) To prescribe drugs to individuals without a prescriber-patient re-
 41 lationship, and not in accordance with unless excepted in this section.

42 Such acts shall be constitute unprofessional conduct and the prescriber
 43 or dispenser shall be subject to discipline according to the provisions of
 44 the Idaho Code chapter pursuant to which the prescriber or dispenser is li-
 45 censed, certified or registered.

46 SECTION 2. That Chapter 17, Title 54, Idaho Code, be, and the same is
 47 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 48 ignated as Section 54-1733A, Idaho Code, and to read as follows:

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

4 (a) By delivery of the original signed written prescription drug order;
5 (b) Electronically by the prescriber or prescriber's agent in compli-
6 ance with the uniform electronic transactions act, chapter 50, title
7 28, Idaho Code;

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

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

15 (e) Via facsimile by a prescriber, prescriber's agent, institutional
16 facility or hospice agent, provided that if the order was initially re-
17 ceived verbally, the transmitted document shall include the name of the
18 prescriber, the name of the licensed practical or professional nurse
19 who received and transcribed the order and the name of the person who
20 faxed the order.

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

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

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

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

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

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