

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 482

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1732, IDAHO CODE, TO ALLOW CERTAIN PERSONS TO DELIVER A LAWFULLY OBTAINED LEGEND DRUG TO AN AUTHORIZED PERSON FOR PURPOSES OF DISPOSAL, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. 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(2), 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:

~~1.~~ (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 ~~subsection~~ 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.

~~2.~~ (ii) There is affixed, in the case of a legend drug dispensed or delivered by a pharmacist, to the immediate container in which such drug is delivered 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 prescription; the name of the practitioner who prescribed such drug; the name of the patient, and if such drugs were prescribed for an animal, 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 practitioner in the course of his practice, the immediate container in which such drug is

1 delivered bears a label on which appears the directions for use
2 of such drug; the name and address of such practitioner; the name
3 of the patient; and if such drug is prescribed for an animal, a
4 statement of the species of the animal. Any person violating
5 this ~~subsection~~ subparagraph shall be guilty of a misdemeanor
6 and upon conviction thereof shall be fined not more than five
7 hundred dollars (\$500). Nothing in this subparagraph prohibits a
8 practitioner from delivering professional samples of legend drugs
9 in their original containers in the course of his practice when
10 oral directions for use are given at the time of such delivery.

11 (b) The refilling of any prescription or drug order for a legend drug
12 except as designated on the prescription or drug order, or by the
13 authorization of the practitioner. Any person guilty of violating this
14 ~~section~~ paragraph shall be guilty of a misdemeanor and upon conviction
15 thereof shall be incarcerated in the county jail for a term not to exceed
16 one (1) year, or punished by a fine of not more than one thousand dollars
17 (\$1,000) or by both such fine and incarceration.

18 (c) The possession or use of a legend drug or a precursor by any
19 person unless such person obtains such drug on the prescription or drug
20 order of a practitioner. Any person guilty of violating this ~~section~~
21 paragraph shall be guilty of a misdemeanor and upon conviction thereof
22 shall be incarcerated in the county jail for a term not to exceed one
23 (1) year, or punished by a fine of not more than one thousand dollars
24 (\$1,000) or by both such fine and incarceration.

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

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

37 (f) It is unlawful to:

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

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

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

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

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

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

11 ~~7.~~(vii) ~~To w~~Wholesale or retail any prescription or legend drug to
12 any person in this state not entitled by law to deliver such drug to
13 another.

14 (4) Provided, ~~7~~ however, that a veterinarian may dispense or deliver
15 a legend drug prescribed for an animal upon the prescription, drug order,
16 or prescription drug order of another veterinarian. The label shall
17 comply with the provisions of subsection (3) (a) ~~2.~~(ii) of this section, and
18 penalties for violations of the provisions of this subsection shall be as
19 provided in this section for like violations by a pharmacist.

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

25 Every violation of ~~subsections 1, 2, 3, 4, 5 and 6~~ of subsection
26 (3) (f) (i) through (vi) of this section shall be a misdemeanor and any person
27 convicted thereof shall be incarcerated in the county jail for a term not to
28 exceed one (1) year, or fined not more than one thousand dollars (\$1,000),
29 or punished by both such fine and imprisonment. Any person violating
30 ~~subsections 7 of subsection (3) (f) (vii) of this section~~ is guilty of a felony,
31 and on conviction thereof shall be imprisoned in the state penitentiary for a
32 term not to exceed three (3) years, or punished by a fine of not more than five
33 thousand dollars (\$5,000), or by both such fine and imprisonment.